

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States of America,
Plaintiff,

vs.

Robert Allen Pooley,
Defendant.

Sacramento, California
No. 2:21-cr-00111
Thu., May 16, 2024
9:05 a.m.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE WILLIAM B. SHUBB, SENIOR JUDGE
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1 (Call to order of the court, 9:05 a.m.)

2 (Jurors identified by Juror Participant Number.)

3 THE COURT: Good morning. I understand we're waiting
4 for one more juror to arrive.

5 I have good news. I've cleared everything for next week,
6 including the meeting that I had with the Marshal Service and
7 my calendar on Monday. So we're going to have every day next
8 week available for this trial.

9 MS. LYDON: Thank you, Your Honor.

10 THE COURT: Anything else we need to discuss before
11 we bring the jury in?

12 MR. SHARMA: No, Your Honor.

13 MS. LYDON: No.

14 MS. CRAGER: No, Your Honor.

15 THE COURT: Any issues with what you're going to show
16 the jury during your eight-minute opening statement?

17 MR. SHARMA: No, Your Honor.

18 THE COURT: See if the jury is ready.

19 (Jury present, 9:11 a.m.)

20 THE COURT: Good morning, ladies and gentlemen.

21 Mr. Juror 101126368, we made arrangements to cover the cost
22 of a hotel for you. You're close enough to the border that
23 there is no problem.

24 JUROR 101126368: Perfect. Thank you.

25 THE COURT: All right. All of the jurors are

1 present. Defendant is present with counsel.

2 As I informed you yesterday, ladies and gentlemen, this is
3 the time for the opening statements of counsel. The attorneys
4 on each side are allowed to give you a statement setting forth
5 what they believe the evidence will show. What they say in
6 their opening statements is not evidence, but it is intended to
7 help you understand the evidence when it is presented.

8 Who wishes to make the opening statement on behalf of the
9 government?

10 MR. SHARMA: I do, Your Honor.

11 THE COURT: All right. Mr. Sharma.

12 OPENING STATEMENT BY MR. SHARMA

13 MR. SHARMA: In 2015, Rob Pooley had a serious
14 problem. Back then, he taught courses that certified skydivers
15 on taking tandem passengers on tandem skydives. Basically, he
16 was teaching the folks that jump out of planes with members of
17 the public strapped to their chest. But in August of that
18 year, he lost the certification that he needed in order to be
19 able to teach the course. Now, at first, he was able to make
20 do by working with another certified teacher; they're called
21 examiners in the industry. But in the summer of 2016, his
22 problem got worse. The person he was working with left the
23 country and took with him the only legitimate means that Pooley
24 had to continue making money off these courses.

25 So what did Pooley do? Well, he kept teaching these

1 courses anyway. He falsely told his students that if they took
2 this course with him, he would get them the certifications they
3 needed -- a course that he wasn't certified to teach in the
4 first place. Basically, he made promises he wasn't allowed to
5 make. And he did it to line his own pockets.

6 And to keep the scheme going, he used the signatures of
7 another person, the other examiner, who had nothing to do with
8 these courses. That conduct is at the center of the
9 government's case against Rob Pooley. At the end of this
10 trial, you will decide charges against Mr. Pooley that focus on
11 the fraud that he committed against the students in the summer
12 of 2016 and his use of another person's signatures in
13 committing that fraud.

14 Now, in order to understand some of the evidence the
15 government will present, you'll need to learn a little bit
16 about tandem skydiving. It's an inherently dangerous activity.
17 An inexperienced, first-time jumper, someone trying to check
18 something off their bucket list, is strapped to the front of a
19 more experienced skydiver controlling the parachute. Now,
20 because it's dangerous, you need a certification to be able to
21 take people on tandem skydives.

22 You will hear from representatives of two organizations who
23 have developed courses that teach these skydivers how to be
24 safe tandem skydivers and gets them the certifications they
25 need. It's called a tandem instructor rating. A rating is

1 just another term for certification, just signifies that these
2 people have completed the training they need to do and have
3 their requisite experience.

4 Now, because of the dangers associated, these courses can
5 only be taught by highly qualified, experienced teachers known
6 as examiners. An examiner is another rating that they provide.
7 It's the highest rating that they offer.

8 You will hear that Rob Pooley was such an examiner until
9 August of 2015 when he was suspended for violating basic safety
10 requirements. In an e-mail exchange that he -- that you will
11 see that he had with the director of safety and training, you
12 will see that he knew that he was suspended, and he understood
13 what it meant for him practically, which is he could not teach
14 a tandem instructor course without another examiner present,
15 supervising.

16 But as I mentioned earlier, that's exactly what he did.
17 And you'll hear from the students that took those courses with
18 him. These students came to his drop zone in Lodi, California,
19 from places as near as Santa Cruz and as far away as South
20 America and South Korea. They will tell you that they wanted
21 this rating not just to become safe certified tandem skydivers
22 but also because it helps them make more money in the field.
23 These ratings are accepted the world over and are required at
24 the majority of drop zones in the US if you want to take people
25 on tandem skydives. So they will tell you that they wanted to

1 come to Lodi, get their ratings, go back to their home bases,
2 their home countries, and be able to take customers on tandem
3 skydives.

4 They will tell you that they trusted Pooley when he told
5 them he could get them the ratings they needed; that they came
6 to Lodi and they paid him money, over a thousand dollars each;
7 and that they took these courses with Pooley. In some, he
8 provided instruction; others, he was barely there, letting them
9 do their training jumps and then showing up on the last day to
10 collect some cash. But they will all tell you, without a
11 doubt, he was the man in charge. He was the only examiner
12 involved in their course. He was the guy running the show. He
13 didn't tell any of them that he was suspended. And they will
14 all tell you that had he told them that, they wouldn't have
15 taken this course with him.

16 Now, after they finished their courses, these students
17 needed their paperwork signed off on by a certified examiner.
18 But Pooley couldn't sign off on their paperwork; he was
19 suspended. So you will hear how he gave these people doctored
20 forms, forms that contained the preprinted signatures of the
21 other examiner that he worked with previously, a guy that had
22 nothing to do with these courses, a guy that wasn't even in the
23 country at the time.

24 Now, ultimately, his scheme unraveled. People found out
25 what he was doing. His students didn't get the ratings that

1 they paid him for. They didn't get any refunds. Some of them
2 gave up on becoming tandem instructors altogether. Others had
3 to take the courses with other examiners, do it all over again.

4 Ladies and gentlemen, when Rob Pooley told his students
5 that he could get them a tandem instructor rating, knowing that
6 he didn't have the ability to do so; when he took his students'
7 money; when he led a course he didn't have a license to lead,
8 he committed wire fraud. And when he used someone else's
9 signature, a means of identification, to commit that fraud, he
10 committed aggravated identity theft.

11 At the end of this trial, my co-counsel will have a chance
12 to stand before you and, in a closing argument, will connect
13 the facts that you have heard with the law that applies, and at
14 that time, we will ask for you to render the only verdict
15 supported by the evidence, and that is guilty on all counts.

16 THE COURT: Thank you.

17 Ms. Crager, do you wish to make an opening statement at
18 this time, or Ms. McLoughlin?

19 MS. MCLOUGHLIN: Yes, please, Your Honor.

20 THE COURT: Ms. McLoughlin.

21 OPENING STATEMENT BY MS. MCLOUGHLIN

22 MS. MCLOUGHLIN: Good morning.

23 The candidates knew what was going on. They knew the deal.
24 They knew that Rob Pooley was going to be doing their training
25 and that another examiner with current ratings was going to be

1 signing off on their paperwork. That examiner was Yuri
2 Garmashov. They knew this because Rob Pooley told them. Rob
3 Pooley was conducting and coordinating tandem instructor
4 courses at the Parachute Center, a drop zone in Lodi. And this
5 drop zone is famous in the skydiving community for being
6 accessible to everyone. They have some of the cheapest jump
7 tickets. And so skydivers from all over the world flock to
8 Lodi, California, to get their ratings, take courses, get in as
9 many jumps as they can, and be part of something.

10 When candidates contact the Parachute Center of this drop
11 zone to get their tandem ratings, they're usually put in touch
12 with Rob Pooley -- they were put in touch with Rob Pooley. He
13 would contact them and say, We can get you your ratings here.
14 He'd give them information on pricing, course preparation, and
15 basically tell them, You can come whenever works for you. Come
16 whenever you like.

17 The candidates would show up. When they showed up,
18 oftentimes Yuri Garmashov was also at the drop zone, which, as
19 you've heard, is a totally acceptable training arrangement.
20 And this is -- you know, who is it acceptable to? This is an
21 acceptable training arrangement to one of the organizations
22 you're going to hear from today, the United States Parachute
23 Association. I'm saying that now because you're going to hear
24 lots of names and lots of acronyms. In an effort to avoid too
25 many acronyms, I'm going to be calling it Parachute

1 Association.

2 And so you'll hear that several tandem instructors got
3 their ratings under this arrangement. Other times, candidates
4 would show up, and Yuri Garmashov wasn't there, and Rob Pooley
5 told them how the course was going to go. He would do their
6 training, and Yuri Garmashov would sign the paperwork. He did
7 not deceive them. They knew what was happening. He would do
8 their training and Yuri Garmashov, as the examiner, would sign
9 off on the paperwork.

10 The government has already mentioned, and I think everyone
11 can probably -- everyone already knows skydiving is an
12 incredibly dangerous activity. You may hear evidence
13 suggesting that because it's so dangerous, these candidates
14 trusted Rob Pooley more, that that makes this fraud different,
15 that he may have had some sort of additional obligation to tell
16 them more. Of course it's incredibly dangerous. You are
17 risking your life each time you leave the ground when you go
18 skydiving. You'll also hear that for that reason, the
19 guidelines of the sport actually emphasize that each individual
20 person, regardless of their experience, has the final
21 responsibility for him or herself; that there is an
22 understanding that in this community, every person is going to
23 be vigilant about their own safety.

24 I want to be very clear that that is not to shift focus
25 onto the candidates, to scrutinize what they did or didn't do

1 under any circumstances. The point of this evidence, rather,
2 is to -- is important when you're considering the expectations
3 you place on Rob Pooley. Did he have some sort of affirmative
4 duty or obligation to say more even if he wasn't asked?

5 So I've been referencing this agreement between Rob Pooley
6 and Yuri Garmashov, an arrangement. You're going to hear that
7 Yuri Garmashov now denies that he ever gave Rob Pooley
8 permission to use his signature for the courses at the drop
9 zone when Yuri wasn't there. As the jury, you are tasked with
10 determining Yuri Garmashov's credibility. Because you're also
11 going to hear that he knew Rob Pooley was using his signature
12 for these courses at the drop zone when Yuri Garmashov was not
13 there and that Yuri Garmashov consented to it.

14 Please pay attention to Yuri Garmashov's motives to tell a
15 story that shows him in the best light. You should also pay
16 attention to the testimony of the candidates themselves. And
17 again, the candidates are the experienced skydivers who took
18 the course with Rob Pooley.

19 They may testify that Rob Pooley didn't tell them anything.
20 And that's because in early August 2016, when the Parachute
21 Association found out that Yuri Garmashov's signature was on
22 paperwork for candidates he did not train, they wanted to hold
23 anyone involved accountable. And so when asked, these
24 candidates minimized what they knew. Specifically, they
25 minimized what they knew about the arrangement between Rob

1 Pooley and Yuri Garmashov.

2 You're probably getting a sense that this case involves
3 paperwork; so I want to talk a little bit about exactly what
4 that paperwork is.

5 The paperwork is the application packet that's used to get
6 these candidates their examiner ratings. And the application
7 packet has a preprinted name and signature of Yuri Garmashov.
8 And he was listed as the examiner. This paperwork had lies in
9 it. And the lie was that under Yuri Garmashov's signature --
10 or above it, actually, it stated that he personally examined
11 and recommends each applicant for the tandem instructor rating.

12 That lie was not meant for the candidates. They knew that
13 Yuri Garmashov wasn't there. They knew that Rob Pooley did
14 their training. That lie was not meant to trick them. It was
15 meant to trick the Parachute Association. As you can imagine,
16 when the Parachute Association discovered this lie, there was
17 some fallout. That fallout included Rob Pooley losing all his
18 ratings, and it was clear he was not going to get them back
19 ever. It was during that time frame he signed a letter
20 basically taking the blame for Yuri Garmashov, taking the blame
21 for everything and for all of Yuri Garmashov's involvement.

22 Years later, when law enforcement started their criminal
23 investigation, he also spoke at length about what happened.
24 He's never said that he misled these candidates. What is clear
25 is that Rob Pooley, Yuri Garmashov, and the candidates were not

1 honest with the Parachute Association. Together, they tried to
2 pull one over on the Parachute Association. They tried to get
3 the skydivers their ratings without following all the rules.

4 And this is the most important thing. What I'm about to
5 say is the most important thing. If you remember one thing,
6 please remember this. Rob Pooley is not charged with
7 defrauding the Parachute Association; he's charged with
8 defrauding these candidates.

9 At the end of the case, my co-counsel, Mia Crager, will
10 also come up here and ask you to find Rob Pooley not guilty on
11 all charges. Rob Pooley did not use Yuri Garmashov's signature
12 to deceive these candidates. He told them about the
13 arrangement. And what he told them was true.

14 Thank you.

15 THE COURT: Thank you. That concludes the opening
16 statements. We'll now begin with the evidence in the case.

17 The government may call its first witness.

18 MS. LYDON: The government calls James Crouch.

19 THE CLERK: Please step forward all the way to your
20 right. All the way up to the witness stand. All the way up on
21 the stand. And remain standing.

22 Face me, please. Raise your right hand.

23 (The Witness, JAMES CROUCH, is sworn.)

24 THE WITNESS: I do.

25 THE CLERK: Thank you. You may be seated.

1 Please state your full name. Spell your last name for the
2 record.

3 THE WITNESS: James Crouch, C-R-O-U-C-H.

4 DIRECT EXAMINATION

5 BY MS. LYDON:

6 Q. Good morning, Mr. Crouch.

7 A. Good morning.

8 Q. What do you do for a living?

9 A. I'm a professional pilot. I fly aerial survey jobs, LiDAR
10 and imagery survey work.

11 Q. Before you were a professional pilot, did you work at the
12 United States Parachute Association?

13 A. Yes.

14 Q. Did you interact with Robert Pooley in 2015 and 2016?

15 A. Yes.

16 Q. All right. Let's start with an overview of the United
17 States Parachute Association and your career at USPA.

18 Briefly, what is USPA?

19 A. USPA is a -- it's an association for skydivers. And it --
20 it's -- represents skydiving in the US to the -- for the FAA.
21 And we generate licenses and ratings for -- for our members and
22 establish rules and guidelines.

23 Q. You said USPA is recognized by the FAA; is that right?

24 A. Yes.

25 Q. Are any other industry organizations who don't manufacture

1 skydiving equipment recognized by the FAA?

2 A. Not to my knowledge.

3 Q. It's just USPA?

4 A. Yeah.

5 Q. All right. How did you end up working at USPA?

6 A. In 2000, the director of safety and training at the time
7 left his -- left his position there. And the position was open
8 for a few months. And a friend of mine who worked at the
9 association kept bugging me to submit a resumé. And so I sent
10 a resumé in after the position had been open for about three
11 months and was hired at that time, July of 2000.

12 Q. July of 2000, you were hired as the director of safety and
13 training, you said?

14 A. Yes.

15 Q. Did you hold that position your entire time at USPA?

16 A. Yes.

17 Q. When did you leave USPA?

18 A. October of 2018.

19 Q. Okay. 19 years?

20 A. Little over 18.

21 Q. Okay. Where were you based geographically while at USPA?

22 A. The first six years was Alexandria, Virginia. And the last
23 12 years was in Fredericksburg, Virginia.

24 Q. What were your job responsibilities as director of safety
25 and training?

1 A. I was in charge of development of student and instructor
2 rating programs; the licensing programs at the association,
3 which issues licenses to members; developing the manuals;
4 editing the manuals for the association; and tracking accidents
5 and fatalities; and quite a bit of writing, submitting five
6 different articles every month for the magazine -- for the
7 monthly magazine.

8 Q. Okay. Did you interact with skydivers as part of your job?

9 A. Every day.

10 Q. What types of interactions did you have with skydivers,
11 typically, on a normal day?

12 A. Ran a wide range of topics. Anything from skydivers
13 interested in getting -- earning ratings, wanting to know what
14 to do, or to the top-level examiners who might have had
15 questions on the manuals or had suggestions for changes or
16 edits or things like that. So I -- I interacted with a wide
17 variety of people.

18 Q. Did you help put people who were looking to become tandem
19 instructors in contact with examiners who could run their
20 courses?

21 A. Yeah. A lot of times, we -- we maintained a rating course
22 calendar. A lot of times, I would just refer them to them,
23 unless they were looking for something specific.

24 Q. Okay. Are you a skydiver -- or were you a skydiver
25 yourself?

1 A. Yes. I haven't jumped in six years, but I was a skydiver.

2 Q. During the time period at USPA, did you also have an
3 occupation outside the organization with respect to skydiving?

4 A. Yes. I -- the same 18-year period, I owned a skydiving
5 center myself that operated on weekends.

6 Q. Did -- a lot of people who were high up in USPA, did they
7 also have other jobs, outside of that, in skydiving?

8 A. Yeah. The vast majority of the membership had a regular
9 Monday-through-Friday-type job, and then they would
10 recreational skydive on the weekends.

11 Q. Okay. Did you hold USPA certifications?

12 A. Yes. I held every instructor rating -- which there are
13 four different instructor ratings -- and I held two of the four
14 examiner ratings, coach and tandem examiner.

15 Q. So you yourself were a tandem examiner?

16 A. Yes.

17 Q. Okay. And did you ever teach tandem instructor courses as
18 an examiner?

19 A. Yes. Yes, I did. I was an examiner for 18 years.

20 Q. All right. And were you ever a tandem instructor?

21 A. Yes. For 22 years.

22 Q. Okay. So, briefly, what is tandem skydiving? Could you
23 describe how it works?

24 THE COURT: Can you have him explain the difference
25 between an instructor and an examiner?

1 MS. LYDON: That's a good question. Of course.

2 Q. BY MS. LYDON: What is a tandem instructor?

3 A. Okay. So a tandem instructor has a rating which allows him
4 to take a first-time jump student on a tandem skydive. So
5 somebody who doesn't know anything about skydiving, they can
6 take them and train them on the ground and take them out for a
7 skydive.

8 Q. And how -- how is that set up? Could you describe the
9 relative body positioning of the tandem instructor and the
10 customer when they're jumping out of the plane?

11 A. Yeah. So a tandem skydive is unique to skydiving because
12 it's the only method where you're physically attached to the
13 student for the entire exit from the airplane, free fall; once
14 the parachute opens, you stay -- remain attached to the
15 student, and it's a -- and you land with the parachute still --
16 with the student still attached to the front of you.

17 Q. So the student is in the front?

18 A. Yep.

19 Q. And the tandem instructor is attached to them, behind them;
20 is that right?

21 A. Right. Yeah. Both facing the same direction. So I'd be
22 looking at the back of the student's head, more or less.

23 Q. As a tandem instructor?

24 A. Tandem instructor, yeah.

25 Q. Who controls the parachute?

1 A. The tandem instructor controls the parachute. There are
2 handles that a student can steer the parachute. Sometimes
3 tandem is used for training, and the student will help steer
4 the parachute too.

5 Q. But a typical tandem jump, is the tandem instructor kind of
6 running the show and the customer is along for the ride?

7 A. Probably 99 percent of the tandems in the US, yeah, the
8 student doesn't do anything once the parachute opens; the
9 tandem instructor handles everything.

10 Q. And who teaches the tandem instructor how to do their job?

11 A. Tandem examiner will train some -- a very experienced
12 tandem instructor how to be a tandem examiner.

13 Q. Tandem instructor?

14 A. Tandem instructor. I'm sorry. A very -- a tandem examiner
15 will train a very experienced skydiver how to be a tandem
16 instructor. So somebody that is learning.

17 Q. Okay. Let's talk about -- you mentioned that USPA offered
18 certifications -- is that right? -- and licenses?

19 A. Yes.

20 Q. How many licenses does USPA offer?

21 A. Four different licenses; A, B, C, and D.

22 Q. Which is the highest?

23 A. D is the highest.

24 Q. How many jumps do you have to have in order to obtain a D
25 license?

1 A. 500 jumps.

2 Q. All right. And is a D license required in order to be a
3 tandem instructor?

4 A. Yes.

5 Q. So before becoming a tandem instructor, a person has to
6 have done 500 solo jumps; is that right?

7 A. That's correct.

8 Q. Okay. And now, those are licenses. Now, there are
9 ratings. What are ratings?

10 A. A rating is a -- is authorization for somebody to train
11 somebody -- train somebody in the first jump method.

12 So USPA has four different instructional ratings. Three of
13 them are for students who are making solo jumps; so they're not
14 attached like a tandem. And then the fourth rating is tandem
15 rating where the -- where they are attached to the student.

16 Q. So is it fair to say that licenses enable skydivers to do
17 things themselves and ratings enable them to teach other people
18 and do things with other people?

19 A. Yes.

20 MS. CRAGER: Objection. Leading.

21 THE COURT: Sustained. Rephrase the question.

22 MS. LYDON: Okay.

23 Q. BY MS. LYDON: What's the difference between licenses and
24 ratings?

25 A. A license just proves -- shows skydiving experience. So

1 each license requires a minimum number of jumps; A is 25, B is
2 50, C is 200, and D is 500. And that allows -- once somebody
3 obtains that license, that gives them the authority to do
4 different things within skydiving. And some of the ratings
5 require a C or a D license. The tandem requires a D.

6 And ratings are certifications which proves somebody has
7 been through a -- a training course and has earned a rating to
8 teach a new student; so somebody who has no skydives. They can
9 teach somebody within that discipline how to become a skydiver.
10 So there are different ways you can advance through training to
11 become a licensed skydiver. So there are three -- four
12 different methods. Three of them are solo jump, where the
13 student wears solo equipment -- accelerated free fall, static
14 line, instructor assisted deployment -- and then tandem.
15 That's the four different ratings.

16 Q. Okay. Those are a really comprehensive overview. Thank
17 you. Let me break that down.

18 Did you say licenses enable students to do things -- or
19 people to do things --

20 A. Yes.

21 Q. -- and ratings enable skydivers to teach things to other
22 people?

23 A. Right. Yeah.

24 Q. Okay. And there is an entry level rating -- did you say
25 that? -- called coach?

1 A. Yeah. There is coach rating as well, yeah.

2 Q. Okay. And then after that, there are -- you mentioned
3 there are four other ratings, and one of them is tandem?

4 A. I'm sorry. I didn't hear that.

5 Q. Sorry. You mentioned four other ratings after coach, and
6 one of those is tandem?

7 A. Yes.

8 MS. CRAGER: Objection. Leading.

9 MS. LYDON: I'm summarizing his testimony.

10 THE COURT: Overruled. Go ahead.

11 MS. LYDON: Thank you.

12 Q. BY MS. LYDON: All right. About how many drop zones are
13 there in the United States?

14 A. There is probably 300ish. Between 250 and 300 in the US, I
15 would think.

16 Q. All right. I should ask, what's a drop zone?

17 A. I'm sorry. What?

18 Q. What's a drop zone?

19 A. A drop zone is where people go to make skydives.

20 Q. All right. And of those 250 to 300 drop zones in the
21 United States, approximately how many are USPA member drop
22 zones?

23 A. I would guess probably somewhere around 270ish -- or 220 to
24 270, in that range, would be group members.

25 Q. Okay. So fair to say the vast majority of drop zones in

1 the United States are USPA member drop zones?

2 A. Yes.

3 Q. What does it mean to be a USPA member drop zone?

4 A. A USPA group member drop zone signs a pledge to follow
5 the -- the association's rules and recommendations and use
6 USPA-rated instructors only to train students. And to --
7 that's basically it. Just to follow the rules and regulations
8 and use rated instructors.

9 Q. Okay. So those USPA drop zones, if a person wanted to jump
10 tandem with a customer, they needed -- what would they need?

11 A. They would have to --

12 Q. I guess, what rating would they need?

13 A. They would need to have a USPA tandem instructor rating to
14 work with tandem students.

15 Q. Was Parachute Center in Lodi a USPA group member?

16 A. No. Not to my knowledge.

17 Q. Did it have -- skydivers who jumped there, were some of
18 them USPA members?

19 A. Yeah.

20 Q. In your role as safety and training director, did you
21 interact with individuals who sought tandem instructor ratings?

22 A. Yes.

23 Q. What skills -- and you yourself are a tandem instructor; is
24 that right?

25 A. I'm sorry. What?

1 Q. You were a tandem instructor --

2 A. Yes.

3 Q. -- you testified?

4 A. Yes.

5 Q. And a tandem examiner?

6 A. Yes.

7 Q. What skills do tandem instructor candidates depend on their
8 examiner to teach them?

9 A. They generally have a basic knowledge of what tandem is,
10 but they're depending on the examiner to train them on the best
11 ways to -- to work with students and to manage the skydive
12 safely and how to operate the equipment and -- and how to fly
13 and land the parachute safely.

14 Q. These students who wanted to be tandem instructors were
15 also experienced solo skydivers, right?

16 A. Yes.

17 Q. What is the difference between solo skydiving and tandem
18 skydiving as an instructor?

19 A. The -- if you're training students for solo skydiving, both
20 people have their own parachute system on and they're not
21 hooked together like tandem. So the student will be out in
22 free fall with their -- with their own parachute system; they
23 deploy themselves, and then the instructor deploys his own
24 parachute system, and they land separately.

25 Q. Okay. Let me ask, what did the students need to learn

1 about the tandem equipment?

2 A. Virtually nothing. The -- the tandem instructor handles
3 everything from -- from deploying the parachute --

4 THE COURT: You wanted to talk about what the
5 examiner does now, right?

6 MS. LYDON: Well, I guess --

7 THE COURT: I understood -- you need to differentiate
8 when you're asking about what an examiner needs to teach and
9 what an instructor needs to teach.

10 MS. LYDON: Exactly. I think the terminology is a
11 little confusing because the people who ride in front are
12 called students, but then with -- there are different levels of
13 classes.

14 Q. BY MS. LYDON: So what I'm asking is what does a solo
15 skydiver need to learn about tandem skydiving in their tandem
16 instructor course.

17 A. Okay. So a tandem candidate --

18 Q. Yes.

19 A. -- would be a way to differentiate.

20 So the tandem candidate in the course, they need to learn
21 the parachute system, the differences in the parachute system.
22 There is -- it's more complex than the solo equipment they're
23 used to.

24 Q. How so?

25 A. There are two extra handles. So a solo parachute system,

1 there are three handles; main deployment handle, and then a
2 cutaway handle that releases the main parachute if there is a
3 malfunction with it, and a reserve ripcord that deploys the
4 reserve parachute, the backup parachute.

5 So with a tandem system, there is a drogue parachute that
6 trails behind the pair in free fall, and two handles that
7 release that drogue. And that drogue parachute then opens the
8 main parachute. And then there is also a reserve ripcord and a
9 cutaway handle for that. So instead of three handles, there
10 are five handles. And the emergency procedures are -- are more
11 complicated because the system is more complex --

12 Q. Okay.

13 A. -- for the tandem.

14 Q. So two handles for -- sorry. Three handles for solo, five
15 handles for tandem?

16 A. Correct.

17 Q. What's a drogue?

18 A. A drogue parachute is a -- it's a 3-foot-diameter parachute
19 that is connected on about a 20-foot piece of material called a
20 bridle. And it just trails off the back of the parachute
21 system. So when the tandem pair exits the airplane, the
22 instructor reaches back to their butt area and grabs this
23 drogue parachute, throws it into the airstream, and it inflates
24 and trails attached to the back of the parachute system right
25 off the back of the tandem pair.

1 Q. What's the function of the drogue?

2 A. Drogue slows the pair down because two people stacked
3 together would fall at about 160, 170 miles an hour, where a
4 solo parachute falls at 110, 120. So the drogue system slows
5 the pair down to a solo speed of about 110, 120, which makes
6 the parachute opening softer and slows the free fall down.

7 It is also used to extract the main parachute from the --
8 from the parachute container. So it needs to be out, inflated
9 during the free fall so a handle can be pulled to release it
10 and allow it to extract the -- the main parachute at that
11 point.

12 Q. Okay. So people who want to be tandem instructors wouldn't
13 have had a drogue in their previous skydiving experience,
14 right?

15 A. Correct.

16 Q. Okay. Who are they depending on to teach them how to use
17 this drogue?

18 A. The examiner.

19 Q. And are there emergency procedures associated with the
20 drogue --

21 A. Yes.

22 Q. -- that tandem instructors need to know?

23 A. Yes.

24 Q. What are some of the things that can go wrong with drogues
25 that tandem instructors need to learn -- tandem instructor

1 candidates need to learn from their examiner?

2 A. Well, they need to learn how to pack it properly, because
3 there is a -- the packing is -- has a lot to do with how it --
4 how it interacts with the air when you throw it out in the air.
5 So they need to learn how to pack it. They need to learn how
6 to throw it properly in the airstream. They need to know what
7 to do if it becomes entangled around the bodies of the student
8 and the instructor. Need to know what to do if it does not
9 inflate when you throw it out. I think that's most of the key
10 things with it.

11 Q. Okay. Are there other emergency procedures unique to
12 tandem that tandem instructor candidates need to learn from
13 their examiner?

14 A. Oh, yes.

15 Q. Can you describe some of the main ones?

16 A. Main parachute malfunction, or how to handle two parachutes
17 out with -- with the -- with the larger parachutes in the
18 tandem pair. If there is a total malfunction, in other words
19 the main cannot be deployed for any reason, both with the
20 drogue -- if the drogue is out -- and if the drogue is not out.
21 High speed malfunction, if the bag locks where the main
22 parachute is out and extended by lines but not out of its bag.
23 So that's pretty much it. There is a -- there is different
24 ranges of extremism for each one of those.

25 Q. Okay. So the malfunctions can occur to varying degrees?

1 A. Yeah.

2 Q. Okay. Before taking the tandem instructor course, had --
3 do skydivers have any experience jumping as tandem instructors?

4 MS. CRAGER: Objection. Speculation.

5 THE COURT: Typically, you're asking?

6 MS. LYDON: If they're complying with USPA
7 guidelines, do they have any experience --

8 THE COURT: Do they need to, you mean?

9 MS. LYDON: Yes.

10 THE COURT: All right. Overruled.

11 Q. BY MS. LYDON: Well, may they have any experience jumping
12 with -- as the tandem instructor, the person in the back, prior
13 to taking the tandem instructor course?

14 A. Almost -- almost never. There is a possibility they --
15 they might have jumped as a -- with another experienced tandem
16 instructor on the back, but it would be very rare.

17 Q. They're not -- are they permitted to be the person in
18 command of the tandem system prior to taking and completing --

19 A. No.

20 Q. -- prior to taking that course?

21 A. No.

22 Q. Okay. So would the tandem instructor course be the first
23 experience that tandem instructor candidates have using this
24 tandem parachute system?

25 A. Yes.

1 Q. And who are they depending on to teach them how to use it
2 correctly?

3 A. The examiner of the course.

4 Q. And then once they complete the tandem instructor course,
5 at that point are they able to jump with customers?

6 A. Once they complete their -- there are ten jumps required.
7 So the initial part of the course is five jumps with -- with
8 course staff, which would be the -- the examiner or a -- what
9 am I trying to say -- or a staff working underneath the
10 examiner.

11 Q. Okay. So you said there are five jumps during the course
12 they have to complete with the examiner or someone under the
13 examiner --

14 A. Correct.

15 Q. -- is that right?

16 A. Yes.

17 Q. After that, you mentioned other jumps. What are they?

18 A. There are five more jumps that can be done at the course
19 there, or sometimes they can and they will go home to their
20 home drop zone and do five.

21 Q. What are those jumps called, the five jumps after the
22 course?

23 A. Those five jumps are called -- we always call them Phase 2.
24 But I forget what the name on the form is for those jumps.

25 Q. Okay. But -- so is that ten jumps total before they're

1 allowed to jump with customers?

2 A. Correct.

3 Q. Okay. And at that point, are they on their own with that
4 tandem system and customers?

5 A. Yes.

6 Q. Okay. Let's talk about why candidates want USPA tandem
7 ratings in addition to the training.

8 What impact does having a USPA tandem instructor rating
9 have on the ability of a skydiver to make money as a tandem
10 instructor?

11 A. It's -- it's widely recognized. It's a -- required almost
12 exclusively in the United States for people to make tandem
13 jumps at drop zones across the US. And even worldwide, it's
14 recognized quite a bit in other countries as a -- as a rating
15 that doesn't require any other training; so they can -- people
16 can go to other countries and work as a tandem instructor as
17 well.

18 Q. Okay. So in the United States, it's -- I think you said
19 it's basically required to have a tandem instructor rating in
20 order to be a tandem instructor?

21 A. Yes.

22 Q. Is it mandatory at those USPA drop zones?

23 A. Yes.

24 Q. And then do some non-USPA drop zones also required their
25 instructors to have tandem instructor ratings?

1 A. Most of them do, yeah.

2 THE COURT: When you say it's required, required by
3 the government or required by the -- just by the --

4 THE WITNESS: Required by the drop zone.

5 THE COURT: By the drop zone?

6 THE WITNESS: Yeah.

7 Q. BY MS. LYDON: All right. And then with respect to
8 skydivers abroad, do some foreign drop zones require tandem
9 instructors to be USPA certified?

10 A. Yes. Some -- in some countries, yes.

11 Q. Okay. Can you throw out some examples?

12 A. Well, there is, like, China, they don't have their own --
13 they don't have their own skydiving guidelines; they use
14 USPA --

15 Q. Okay.

16 A. -- for their --

17 Q. Are there other countries that do have their own skydiving
18 guidelines that allow conversion from USPA ratings to their
19 guidelines?

20 A. Yes.

21 Q. Can you throw out some of those countries?

22 A. New Zealand or Australia --

23 Q. Okay.

24 A. -- they have shorter courses.

25 Q. All right. Let's turn now to examiners.

1 As part of your job, did you talk to examiners frequently?

2 A. Yes.

3 Q. On what types of topics?

4 A. Everything from -- from questions with course materials or
5 questions without it, how to handle something with a candidate,
6 or just calling to -- to get a course scheduled.

7 Q. Okay. If an examiner happened to be traveling, is that
8 something that you might learn in the course of your work,
9 communicating with examiners?

10 A. Yes.

11 Q. Do you recall that you were in communication -- or whether
12 you were in communication with Yuri Garmashov over the summer
13 of 2016?

14 A. I -- I don't recall, no. I don't -- I don't remember ever
15 having any interaction with him.

16 Q. Is there anything that might refresh your recollection as
17 to whether you communicated with Yuri Garmashov over the summer
18 of 2016 via e-mail?

19 A. If I saw the e-mail, it might -- I mean, I --

20 Q. Could you take a look at the binder behind you, Binder 8.

21 THE COURT: Do you want to help him find it?

22 Q. BY MS. LYDON: It will be Tab 1001. Just read it silently
23 to yourself and look up when you're finished.

24 A. Okay. Yep. I remember this.

25 Q. All right. Can you -- you can mark that page, but maybe

1 close the binder.

2 All right. Did looking at that e-mail refresh your
3 recollection as to whether you communicated with Mr. Garmashov
4 over the summer of 2016?

5 A. Yes. I recall that now.

6 Q. And was -- did you learn that Mr. Garmashov was abroad?

7 A. Yes.

8 Q. How did you learn that?

9 A. In the e-mail, he said he was out of the country.

10 Q. All right.

11 MS. CRAGER: Objection. Hearsay.

12 THE COURT: I didn't know we had a problem with that
13 microphone. When we have a break, could you see if we can work
14 something out so that it doesn't do that.

15 MS. LYDON: It might be user error, too.

16 THE COURT: It shouldn't be a problem. So I lost --
17 I didn't hear the objection.

18 MS. CRAGER: Objection. Hearsay.

19 THE COURT: What was the question?

20 THE WITNESS: If Yuri was out of the country.

21 THE COURT: Oh. But you -- you already had him say
22 that he had this e-mail. Let me see the e-mail. I --

23 MS. LYDON: It's at Tab 1001. I'm not entering the
24 e-mail into evidence at this time. I'm asking whether he was
25 in communication with Mr. Garmashov over the summer of 2016 and

1 learned that he was out of the country.

2 THE COURT: Okay. Well, "learned that he was out of
3 the country," that's hearsay.

4 MS. LYDON: It's not for the truth; it is for the
5 fact that the USPA had knowledge of examiners' whereabouts.

6 THE COURT: That's the truth. So I'm going to
7 sustain the objection.

8 Disregard the question and the answer about whether
9 Mr. Garmashov was out of the country, ladies and gentlemen.

10 Go ahead.

11 MS. LYDON: All right.

12 Q. BY MS. LYDON: Aside -- setting aside Mr. Garmashov, did
13 you often have knowledge when an examiner was traveling?

14 A. Yes.

15 Q. And about how many examiners were there in the country --
16 tandem examiners?

17 A. Tandem examiners, probably 200 to 250.

18 Q. Okay. And did USPA -- let's turn now to what USPA made
19 sure that its examiners knew.

20 Did USPA provide written materials to examiners and the
21 general skydiving community?

22 A. Yes.

23 Q. All right. What are -- what's -- what's the main document
24 that USPA provided to instructor examiners?

25 A. The Instructional Rating Manual, which is the rather large

1 document that had all the rating course materials for all the
2 disciplines.

3 Q. Who wrote the Instructional Rating Manual?

4 A. I did, with a lot of assistance. But I was one of the
5 major controllers of that document.

6 Q. All right. So you were one of the main authors of the
7 document. And then was the -- was the Instructional Rating
8 Manual revised from time to time?

9 A. Yes. It was revised every -- the board would hold meetings
10 twice a year, every six months, and there would generally be
11 edits to that manual done at one or both of the meetings.

12 Q. Okay. And were examiners like Mr. Pooley expected to be
13 familiar with and understand the USPA Instructional Rating
14 Manual?

15 A. Yes.

16 Q. All right. Could you -- could you grab Binder 2 behind
17 you.

18 I believe Binder 2 consists of a tab marked Government's
19 Exhibit 80. What is Government's Exhibit 80?

20 A. I'm sorry. What?

21 Q. What is Government's Exhibit 80, the document in front of
22 you?

23 A. This is the Instructional Rating Manual, 2014-2015 edition.

24 MS. LYDON: Okay. Move to admit Government 80.

25 THE COURT: The entire manual?

1 MS. LYDON: Yes.

2 THE COURT: Any objection?

3 MS. CRAGER: I believe the whole manual is hearsay,
4 Your Honor. But portions of it would be fine.

5 THE COURT: Well, I haven't seen the whole manual.
6 I'm sure there probably is hearsay in it.

7 MS. LYDON: None of it is for the truth. It's all
8 for the knowledge of Mr. Pooley as to the requirements.

9 THE COURT: I don't know that that's true or not
10 because we haven't -- how big is the manual? Is that the whole
11 thing?

12 THE WITNESS: Yes.

13 THE COURT: I can't receive that entire thing in
14 evidence without some further discussion. So do you have some
15 particular part of it right now you want to ask him about?

16 MS. LYDON: We could go page by page.

17 THE COURT: It's up to you. I can't receive the
18 whole exhibit without some further discussion.

19 Q. BY MS. LYDON: All right. So this 2015 -- 2014-2015
20 Instructional Rating Manual, when was it current through? When
21 was it the operative Instructional Rating Manual?

22 A. It would generally -- it could be used for two years after
23 its -- after its time period, to allow for the next version to
24 be edited and put into place. So we always had a date that --
25 that said it was valid through whatever date.

1 Q. Okay. The Instructional Rating Manual in front of you,
2 when was it operative through, month and year?

3 A. Through November 2016 is on the first page. It says it's
4 good for courses held through November 2016.

5 Q. All right. And you said that examiners like Mr. Pooley
6 were expected to be familiar with this manual; is that correct?

7 A. That's correct.

8 MS. LYDON: Move to admit page 1, the title page.

9 THE COURT: I'm getting my copy here in front of me,
10 which will make it easier.

11 MS. CRAGER: No objection to page 1, Your Honor.

12 THE COURT: All right. Page 1 of Exhibit 80 is
13 received in evidence.

14 (GOVERNMENT'S EXHIBIT 80, PAGE 1 ADMITTED INTO EVIDENCE.)

15 Q. BY MS. LYDON: Does pages -- we can publish page 1, please.

16 We have an hourglass while the computer system is waking
17 up.

18 While that is getting set, does page 3 through 5 of the
19 document consist of a table of contents generally describing
20 what's in the manual?

21 A. Yes.

22 MS. LYDON: Move to admit pages 3 through 6 as
23 general overview of information examiners are expected to know.
24 And then we'll go through particular points.

25 MS. CRAGER: No objection, Your Honor.

1 THE COURT: 3 through 6 --

2 MS. LYDON: Yes.

3 THE COURT: -- Exhibit --

4 MS. LYDON: No. I'm sorry. Page -- this is all
5 Exhibit 80, because Your Honor wants to go page by page.

6 THE COURT: No. I don't want to go page by page.
7 I'm just not going to let you put the entire manual in until we
8 have an opportunity to discuss it, because, you see, when
9 something comes into evidence, it goes into the jury room at
10 the end of the trial, and the jury can look at everything in
11 there, and I don't want to confuse this jury with what looks
12 like a couple thousand pages --

13 MS. LYDON: Okay.

14 THE COURT: -- without giving them some guidance as
15 to what this is all about.

16 MS. LYDON: We'll proceed step by step.

17 Q. BY MS. LYDON: So now it looks like we have the first page
18 up.

19 Do you see that note that this manual may be used as a
20 valid textbook for USPA ratings through December -- through
21 November 2016?

22 A. Yes.

23 Q. All right. So it was operative over the summer of 2016?

24 A. Yes.

25 Q. Okay. And over the summer of 2015?

1 A. Yes.

2 Q. Okay. General organization of the manual. Could we look
3 at page 004.

4 Does this page generally cover the tandem instructor rating
5 course requirements as well as the instructor examiner
6 requirements?

7 A. Yes.

8 Q. All right. If you turn to page 8 of the document. Does --
9 does page 8 cover the purpose of the Instructional Rating
10 Manual?

11 A. Yes.

12 Q. Does it also cover some paperwork requirements in the
13 second column?

14 A. Yes.

15 MS. LYDON: Move to admit page 8.

16 MS. CRAGER: No objection to page 8.

17 THE COURT: Well, before we do this, we need to have
18 a discussion here. So is it -- is this a good time for a
19 recess, or can you go into something else before we get to the
20 recess?

21 MS. LYDON: Moving off of the Instructional Rating
22 Manual?

23 THE COURT: Right.

24 MS. LYDON: Now is the time that I was planning on
25 describing Mr. Pooley's knowledge.

1 THE COURT: Let's take a short recess. Let's take a
2 15-minute recess.

3 Remember the admonition, ladies and gentlemen. We'll take
4 a 15-minute recess. We'll call you when we're ready for you to
5 come back.

6 (Jury not present, 10:09 a.m.)

7 THE COURT: All right. The jurors are outside the
8 courtroom.

9 Ms. Lydon, what would be the purpose of any of these pages
10 separately or collectively from this exhibit?

11 MS. LYDON: So right now, we're still just on
12 organization. Like, this thing --

13 THE COURT: Who cares? Here is the point.

14 MS. LYDON: Okay.

15 THE COURT: Who cares how it's organized? Do you
16 really want the jury to spend some time figuring out how this
17 is organized?

18 MS. LYDON: Well, I was providing the table of
19 contents so that if they became interested during the
20 deliberations, based on all of the information --

21 THE COURT: Why should they be interested?

22 MS. LYDON: Because this information in this manual
23 advises Mr. Pooley of what was expected of him and required of
24 him and advises tandem instructor candidates as to what was
25 expected and required of them with respect to --

1 THE COURT: So you want to bring it in to show what
2 Mr. Pooley knew?

3 MS. LYDON: Yes.

4 THE COURT: So, first, you have to lay the foundation
5 that he read this somehow.

6 MS. LYDON: I did. Examiner candidates are expected
7 to be familiar with and recognize this document.

8 THE COURT: You haven't --

9 MS. LYDON: We'll be covering training on this
10 document with respect to --

11 THE COURT: I assume there is no dispute about it.
12 But I don't remember you talking about what Mr. Pooley -- I
13 don't remember you talking about Mr. Pooley at all except in
14 the opening statement.

15 MS. LYDON: Well, we haven't gotten to that part yet.

16 THE COURT: I know it. So that's the point. So if
17 it's to show what Mr. Pooley knew, you don't have to show that
18 he knew several hundred pages of detail. You have to show that
19 he knew -- you want to show that he knew something in this
20 manual?

21 MS. LYDON: Um-hum.

22 THE COURT: Why can't you just go to the part of the
23 manual that you want to show that he knew?

24 MS. LYDON: I --

25 THE COURT: See, what I would do if I were trying to

1 prove something like that is I would call a witness, and I
2 would say, Do you know what a -- an instructor such as
3 Mr. Pooley would have received and read in order to become
4 whatever he is? And then you'd lay that foundation. And then
5 you'd point out what it is in this that you want the jury to
6 know -- anyway, I don't care.

7 You make an eight-minute opening statement, and then you
8 have thousands -- literally thousands -- of paragraphs that you
9 want to put in.

10 And if there is no objection, why don't you just put in the
11 whole manual? I don't want -- I don't want you to nitpick this
12 apart. I'm trying to protect this jury. It's not fair to
13 them. Look at it. Look at it. It's not fair to them to send
14 this into the jury room without telling them why they have it.
15 What it is they're supposed to learn from this? And I don't
16 know. I don't have a clue.

17 Do you have an objection to the whole --

18 MS. CRAGER: I do object, Your Honor. I think most
19 of it is irrelevant.

20 THE COURT: It's all irrelevant. All of it is
21 irrelevant so far. 100 percent of it. I don't see anything.
22 There is no foundation that Mr. Pooley ever saw this yet.

23 MS. LYDON: I can lay additional foundation. I'd be
24 happy to lay additional foundation, Your Honor.

25 THE COURT: It's up to you.

1 MS. LYDON: Yes. We're just getting -- we're just
2 started. We're about to get into the parts that are important.

3 THE COURT: But right now you're offering things into
4 evidence where there is no showing as to why it's relevant and
5 for what purpose it's even offered.

6 You want to show Mr. Pooley knew something. Okay. What is
7 it you want to show he knew?

8 MS. LYDON: It's sort of a question-by-question
9 process. I can -- I will go through that with the witness.
10 But it goes to who is required to fill out the paperwork, that
11 examiners are required to check their own currentness --

12 THE COURT: All right.

13 MS. LYDON: -- before signing paperwork.

14 THE COURT: You don't have to have a few thousand
15 pages in order to point that out.

16 MS. LYDON: Right. I'm going to go through page by
17 page because that's --

18 THE COURT: I can see why it's 11 days if you're
19 going through it page by page.

20 Bring the jury back in.

21 MS. LYDON: I think -- didn't they take a 15-minute
22 break?

23 THE COURT: Okay. We'll take the rest of the break.

24 (Recess taken, 10:14 a.m. - 10:24 a.m.)

25 THE COURT: All right. I think the time is up. Is

1 everybody ready for the jury to come back?

2 MS. LYDON: Yes, Your Honor.

3 THE COURT: All right. Bring the jury back.

4 MS. LYDON: We've agreed on which pages should come
5 in. And I only have about five minutes on this.

6 THE COURT: All right. Great.

7 MS. LYDON: Your Honor, outside the presence of the
8 jury --

9 THE COURT REPORTER: I'm sorry. Microphone, please.

10 MS. LYDON: -- I've been informed that the defense
11 has objections to some of the next series of e-mails and
12 letters to Mr. Pooley that are coming in; so it may be fruitful
13 to address that outside the presence of the jury.

14 THE COURT: All right. Let's do it.

15 MS. LYDON: The first one is a set -- the first set
16 is a set of letters and e-mails describing the USPA and UPT's
17 investigation of infractions that led to his retraining.

18 THE COURT: Okay. Are these --

19 MS. LYDON: This is Exhibit -- starts with
20 Exhibit 85.

21 THE COURT: 85 to what?

22 MS. LYDON: The only one for this particular
23 retraining is -- for this witness is 85. And then it will go
24 into the 2015 suspension.

25 (Jury entering courtroom.)

1 THE COURT: Apparently, we're still talking, ladies
2 and gentlemen.

3 THE CLERK: Sorry about that, Judge.

4 THE COURT: No problem.

5 (Jury exited courtroom.)

6 THE COURT: What's the objection to Exhibit 85?

7 MS. CRAGER: Exhibit 85 is an e-mail and a letter
8 describing why the Parachute Association decided to revoke
9 Mr. Pooley's rating in 2014.

10 THE COURT: All right. Now, let me ask you a
11 question. I heard the opening statement. And I heard
12 Mr. Sharma say that Mr. Pooley was suspended for violating
13 basic safety requirements, and a red light went off in my head.
14 Because while it is relevant and important to show that he was
15 suspended, it is not relevant to show why, in my opinion.

16 So what would be the relevance to show why he was
17 suspended?

18 MS. LYDON: The specific correspondence around the
19 two suspensions at issue in this case demonstrates to
20 Mr. Pooley the way that the USPA investigates violations of
21 paperwork, violations of their rules. It shows that on two
22 separate occasions, they went to candidates; they wrote these
23 multipage letters; and they took action, including revoking the
24 students who were improperly certified by his ratings.

25 And that knowledge, Your Honor, goes to Mr. Pooley's

1 knowledge. The knowledge that when he improperly certified
2 students in the fraud in this case, when he submitted paperwork
3 that was signed by an examiner who was out of the country,
4 there was a very high likelihood that the USPA and UPT would do
5 just what they did in 2015 and 2014, and look into that, and
6 that those students -- the victims in this case -- wouldn't get
7 ratings at all just like the ones -- the ones --

8 THE COURT: There is no doubt in anybody's mind
9 they're not going to get ratings. You don't have to go through
10 all that, do you? If he's not certified, isn't it very clear
11 from the evidence that you're going to present that the
12 students that he attempts to teach to become instructors are
13 not going to get their instructor certifications?

14 MS. LYDON: No, Your Honor. Because, just like the
15 defense said in their opening, Pooley hid it by using
16 Garmashov's signature. His plan was a hope and a prayer that
17 the USPA and UPT wouldn't put two and two together and realize
18 that that signature was fraudulent. And so these e-mails and
19 letters show that he was on notice that that was not a plan
20 likely to succeed.

21 It was not just, as Ms. McLoughlin said --

22 THE COURT: I understand what you're saying. Let me
23 look at these e-mails.

24 MS. CRAGER: Your Honor, if I may respond?

25 THE COURT: What?

1 MS. CRAGER: If I may respond?

2 THE COURT: All right. What did you want to say?

3 MS. CRAGER: Our position is that it's not relevant
4 why exactly he was suspended these other times. What the
5 government appears to be saying is that the process by which
6 the Parachute Association would go about investigating is
7 relevant, but that doesn't make it relevant why exactly he was
8 suspended.

9 I will also say this first exhibit --

10 THE COURT: Can we show -- can we allow the
11 government to show the process that they undertake without
12 talking about whether -- the reason for the suspension is one
13 thing or another?

14 MS. CRAGER: I have no objection to that, Your Honor.

15 MS. LYDON: We cannot do that, Your Honor. It's
16 shown in this correspondence where they describe their detailed
17 investigation.

18 THE COURT: I'm not going to allow it.

19 MS. LYDON: That's --

20 THE COURT: Then it's under Rule 403. The probative
21 value that you have suggested, which arguably would be relevant
22 -- the prejudicial effect of showing that he was suspended for
23 safety reasons far outweighs the probative value.

24 MS. LYDON: Let's look at maybe this particular
25 letter. It looks -- it never says as far -- in a quick scan,

1 it doesn't say the word safety.

2 THE COURT: That's why I asked you if we could do
3 this. And you said no, you cannot separate the reasons why he
4 was suspended from the procedures that they undertook in that
5 proceeding. And that's why -- that's why I said I wouldn't
6 allow it. Now, if you can separate them, we can talk about
7 that.

8 MS. LYDON: So this letter here describes the reasons
9 for the suspension, but it doesn't say the word safety.

10 THE COURT: Well, okay. The word safety --

11 MS. LYDON: It says --

12 THE COURT: Let me look at it and see what it does
13 say.

14 MS. CRAGER: Your Honor, the BSRs that are referenced
15 in the letter, that's what I believe was referenced in opening
16 about the safety requirements.

17 MS. LYDON: We don't have to define BSR. What I'm
18 going to direct him to is the bottom of the first page, the
19 USPA investigated and --

20 THE COURT: Well, look, I can't read the whole thing.

21 Ms. Crager, what is there about the contents of this letter
22 that you think is prejudicial that either refers to safety or
23 that the jury would infer it's referring to safety?

24 MS. CRAGER: Well, the government said in opening
25 that he was revoked for safety reasons, and that is what that

1 is.

2 THE COURT: I wish they hadn't said that, but that's
3 now water under the bridge.

4 How do we keep this thing here from adding further
5 prejudice?

6 MS. CRAGER: My -- my request would be that this
7 letter does not come in. The fact that he was revoked and the
8 process by which he was told --

9 THE COURT: But where is the evidence of the process?
10 Is that in the letter?

11 MS. LYDON: Yes. It says -- the bottom of the first
12 page -- that a representative notified him that one of his
13 instructor -- his tandem instructor students did not have three
14 years in the sport of skydiving at the time you qualified him
15 to be a tandem instructor, which is a requirement. So he was
16 suspended.

17 It then says, Separate from this, around this time, you and
18 I have been working together to correct a number of
19 deficiencies in your documentation for your USPA students which
20 prejudiced several of your students in -- in your -- by
21 delaying the issuance of their licenses and ratings.

22 That shows -- the first paragraph I described shows that
23 they look into these paperwork violations. And that paragraph
24 that I just read now shows that Mr. Pooley should know --

25 THE COURT: That they --

1 MS. LYDON: -- the consequence was they wouldn't get
2 their rating. That it prejudiced students --

3 THE COURT: So is there anything else in here that
4 talks about safety or you think the jury might draw an
5 inference that safety reasons were involved?

6 MS. CRAGER: Yes, Your Honor. It's talking about
7 people not having the requirements to safely skydive.

8 THE COURT: But where does it say that?

9 MS. CRAGER: The requirements in that last paragraph
10 she was talking about.

11 THE COURT: It didn't say safety. Did it say safety?

12 MS. CRAGER: It did not say safety. It just said
13 that he did not meet the requirements of having three years in
14 the sport.

15 THE COURT: That doesn't talk about safety.

16 MS. CRAGER: Yes. My -- it does reference -- so
17 BSRs, in the paragraph under violation and offense, that is
18 defined in the manual.

19 THE COURT: But unless we let the whole manual in,
20 they're not going to know that it has anything to do with
21 safety, are they?

22 MS. CRAGER: I -- I think that will be discussed.

23 MS. LYDON: We're not going to bring in the
24 definition of BSRs. We can avoid that.

25 THE COURT: All right. With that understanding,

1 then, I'm inclined to allow this exhibit into evidence.

2 MS. CRAGER: I think that this is still 403 because
3 the exact facts about what he did not do and what he did do in
4 the year 2014, that's not even the suspension to which he was
5 later training people.

6 THE COURT: I don't know how you can undo the opening
7 statement either. So they've already heard about safety. I
8 don't know.

9 MS. CRAGER: Well, we -- our position is, and has
10 been, that it is irrelevant why he was suspended.

11 THE COURT: I think you're right.

12 MS. CRAGER: But --

13 MS. LYDON: But the process by which he's suspended,
14 the fact that USPA looks into it, all that stuff is relevant.

15 THE COURT: You may be right as well. So the
16 question is how can we allow evidence of the process that they
17 go through without allowing the evidence of the reasons why,
18 particularly the safety concerns.

19 MS. LYDON: This letter, as Your Honor just observed,
20 doesn't mention it.

21 THE COURT: It does. You're right. So we can -- I'm
22 inclined to allow this -- this into evidence.

23 MS. CRAGER: I mean, this is exactly what the reason
24 was. So saying that the reason is irrelevant -- I don't see
25 why a witness couldn't testify about what the process was that

1 they went through without going into exactly what the reason
2 was.

3 THE COURT: Because they want to show that Mr. Pooley
4 was aware of the process.

5 MS. CRAGER: Correct. So --

6 THE COURT: Okay.

7 MS. CRAGER: -- couldn't the witness say that he was
8 advised about those, not to put in the letter?

9 THE COURT: I don't know who would say that. The
10 letter is what they want to use to prove it.

11 MS. LYDON: Correct.

12 THE COURT: Okay. I'm going to allow the letter.

13 We'll talk later about how we undo the statement in the
14 opening statement, that the reason for the suspension was
15 violating basic safety requirements. So we can talk about that
16 later. That doesn't have anything to do with this.

17 Is there anything else before we bring the jury back in?

18 MS. LYDON: There is a number of correspondence that
19 goes -- once we get to 2015, it's similar. So there is another
20 letter, Exhibit 903; this is now the 2015 suspension, the one
21 at issue in this case. This is putting him on notice of his
22 suspension. And --

23 THE COURT: Okay. Is there anything in there,
24 Ms. Crager, that you think prejudices Mr. Pooley?

25 MS. LYDON: Again, it doesn't discuss safety.

1 MS. CRAGER: One moment. I'd like to look at the
2 letter. 903?

3 MS. LYDON: Um-hum.

4 THE COURT: You're losing valuable jury time to do
5 this. I'd like to bring them back in if we can --

6 MS. LYDON: Well, this is important evidence for our
7 case. This is the core of it, really, that he's on notice of
8 all these requirements and that he was on notice of his
9 suspension.

10 THE COURT: Do you want to send the jury home until
11 this afternoon, then?

12 MS. LYDON: No, Your Honor.

13 THE COURT: If it's so important that we can't --

14 MS. LYDON: I don't want to have -- I think it would
15 be efficient to streamline through this. And I can tell you
16 exactly why -- with the next two documents, why they're
17 relevant.

18 THE COURT: Which two documents?

19 MS. LYDON: 903, it's just --

20 THE COURT: 93, you say?

21 MS. LYDON: 903. This is the letter saying that they
22 were --

23 THE COURT: 903?

24 THE COURT REPORTER: I'm sorry, Counsel.

25 THE COURT: I don't see an Exhibit 903. I'm sorry.

1 We're on 80, right? Okay. 903. Okay.

2 MS. LYDON: This will be a very quick hit. This is
3 just his advisal that they are contemplating suspending his
4 examiner ratings in 2015. Then it doesn't mention safety at
5 all.

6 MS. CRAGER: Your Honor, our position is still that
7 the reasons for his suspension is irrelevant.

8 THE COURT: Yes. Absolutely. Absolutely. I don't
9 know what we're talking about. I thought -- I intended to make
10 it clear that I -- I believe and agree with Ms. Crager that the
11 reasons for the suspension are irrelevant. And to the extent
12 that they may be relevant, their probative value is outweighed
13 by the prejudicial effect.

14 I thought I also made it clear that I was inclined to agree
15 with Ms. Lydon that -- that the process by which they go
16 through the suspension and Mr. Pooley's knowledge of the -- of
17 the process is relevant.

18 And I thought what I was trying to say, unartfully, was
19 that if we could get the evidence of the process in without
20 going into the reasons for the suspension, I was going to allow
21 it.

22 MS. CRAGER: Yes, Your Honor. And I do have three
23 witnesses from the Parachute Association testifying. I'm aware
24 -- I don't see why one of them couldn't explain what the
25 process was and that it was communicated to Mr. Pooley.

1 MS. LYDON: Let's go document by document. I think
2 we can -- we're almost finished with the ones that can cause --

3 THE COURT: Every time you get to it, she says, I
4 still object to the reasons for the suspension. And I'm trying
5 to figure out if there is something in any of these documents
6 that talk about the reason. If you are just laying a trap for
7 me --

8 MS. LYDON: I'm not, Your Honor.

9 THE COURT: -- I'll take it.

10 MS. LYDON: I'm not, Your Honor. I'm trying to get
11 this --

12 THE COURT: Then tell me --

13 Why don't we start with Ms. Crager.

14 What is there in any of these exhibits that you would like
15 to have stricken or that you would like to call to my attention
16 that you think might create an inference about the reasons for
17 the suspension?

18 MS. LYDON: Let's go to 905. I'll skip 903.

19 MS. CRAGER: These -- these letters explain why he's
20 being suspended. So all of the letters have --

21 THE COURT: Tell me where they say that.

22 MS. LYDON: 905. We're going to withdraw 903. 905.

23 MS. CRAGER: I'm sorry. I'd like to start talking
24 about 903 that we were just looking at.

25 MS. LYDON: I just said we can not do 903. So let's

1 spend our time on the one the government is still seeking to
2 admit, 905.

3 THE COURT: They dropped 903.

4 MS. CRAGER: Understood.

5 MS. LYDON: This is the letter informing him of his
6 suspension at issue in this case.

7 THE COURT: Okay.

8 MS. LYDON: And I can go through the relevance of it.

9 THE COURT: No. It's relevant that he was suspended.

10 MS. LYDON: Absolutely. And he was advised of it via
11 this letter.

12 THE COURT: I know. Look --

13 MS. LYDON: So now the specific words of it are also
14 relevant. The first sentence describes the terms of the
15 suspension. USPA Coach Examiner, USPA Tandem Instructor
16 Examiner rating for a period of one year beginning --

17 THE COURT REPORTER: I'm sorry.

18 THE COURT: Stop talking. I can read faster than you
19 can say it. So let me just read it.

20 MS. LYDON: All right. I'll describe, when you're
21 ready, the rest of the paragraph.

22 The second sentence --

23 THE COURT: I'm -- I'm doing something.

24 MS. LYDON: Okay.

25 THE COURT: All right. Now, the second paragraph

1 says, The decision to suspend your ratings was due to the
2 ongoing errors with candidate paperwork and violating safety
3 requirements by training members to conduct tandem jumps
4 without a tandem instructor rating or valid medical.

5 Now, you -- you take the position for the government that
6 the reason for the suspension somehow makes a difference in
7 what it tells Mr. Pooley about the process, right?

8 MS. LYDON: Yes.

9 THE COURT: Okay. Tell me that. Why does it -- if
10 the -- if the second paragraph was entirely out of that, what
11 would be the difference?

12 MS. LYDON: Well, taking it in turn. Due to the
13 ongoing errors with candidate paperwork -- he continued to
14 submit those Yuri Garmashov signed documents. And he's going
15 to argue that he wasn't defrauding the candidates because he
16 thought USPA would issue those ratings.

17 THE COURT: So if we struck everything after the word
18 "paperwork," what would be the difference?

19 MS. LYDON: We could do that. Everything after
20 "paperwork"?

21 THE COURT: Right.

22 MS. LYDON: That's agreeable.

23 THE COURT: Okay.

24 MS. LYDON: Should we move on?

25 THE COURT: If that's agreeable.

1 That sounds pretty good to me, Ms. Crager.

2 MS. CRAGER: That's fine, Your Honor.

3 THE COURT: All right.

4 MS. LYDON: Then 911 is also -- that's probably our
5 most important piece of evidence in the trial. And I don't see
6 any reason that that shouldn't come in.

7 THE COURT: 911?

8 MS. LYDON: Yes.

9 Do you have an objection to 911, Ms. Crager?

10 THE COURT: Is there anything in this that refers to
11 safety?

12 MS. CRAGER: I don't believe so, from my memory, Your
13 Honor. But I'd just like to take a look.

14 THE COURT: Then what is it that you wanted to talk
15 about?

16 MS. CRAGER: I didn't want to talk about this. I
17 think Ms. Lydon is just advising she intends to admit this.

18 THE COURT: She's saying she wants to admit it. The
19 only reason I would talk about it is if you don't want her to
20 admit it.

21 MS. CRAGER: Correct. I don't think I have an
22 objection to this one.

23 THE COURT: Okay. Let's not take any more time with
24 this one, then.

25 MS. LYDON: Okay. 912, which is a Pooley letter

1 appealing his suspension, showing he knew about it, he took it
2 seriously, this mattered to him.

3 THE COURT: Is there anything here that you think
4 would prejudice Mr. Pooley?

5 MS. CRAGER: I'm sorry. Which?

6 MS. LYDON: 912.

7 MS. CRAGER: This goes into the reasons for the
8 suspension. It's his --

9 THE COURT: Where does it go into --

10 MS. CRAGER: I'm sorry. On the -- so the e-mail is
11 the first page, which attached is a letter talking about the
12 reasons for the suspension and the details.

13 THE COURT: Okay. So what about that, Ms. Lydon?

14 MS. LYDON: Is Ms. Crager suggesting a specific
15 redaction?

16 THE COURT: I haven't read the whole thing, but it
17 says the reason; so I assume there may be some discussion about
18 the reasons here.

19 MS. LYDON: We could redact paragraph 2.

20 MS. CRAGER: Well, the entire letter is about the
21 reasons, and we believe that the reasons are irrelevant.

22 THE COURT: That's the reason for the appeal, not the
23 reason for the suspension.

24 MS. CRAGER: Sure. But the reasons for the appeal
25 are the reasons he's contesting the reasons for the suspension.

1 THE COURT: Maybe. Maybe not.

2 MS. CRAGER: Those are the reasons for the
3 suspension, and he discusses each of them at length.

4 THE COURT: So why do we even need to know the
5 reasons for the appeal? Is it the fact that he took an appeal?
6 Is that what you --

7 MS. CRAGER: We have no objection to that fact.

8 THE COURT: All right. So, Ms. Lydon, if we just
9 struck, The reasons for the appeal are as follows, and then
10 everything after that, is that all right?

11 MS. CRAGER: We would also like to strike the
12 previous paragraph starting, The reasons for the suspension due
13 to ongoing errors and violating safety requirements --

14 THE COURT: Right. Right. Absolutely.

15 What are you trying to prove with this, that he took an
16 appeal?

17 MS. LYDON: And took it very seriously. This is not
18 something he thought was just a silly requirement, it didn't
19 matter. The fact that he was suspended was a big deal to him.

20 MS. CRAGER: We have no objection to just the first
21 paragraph of the letter.

22 THE COURT: Let's just go to the first paragraph,
23 then.

24 MS. LYDON: And redacting the entire rest of the
25 letter?

1 THE COURT: Right. Because all it does is set out
2 the reasons for the appeal. And maybe the last paragraph. Let
3 me look at the last paragraph.

4 For the reasons stated above, as well as my excellent
5 reputation within the skydiving community and my years of loyal
6 service to the USPA, I request disciplinary action suspending
7 my USPA Coach Examiner and Tandem Instructor Examiner ratings
8 be reconsidered.

9 MS. LYDON: Okay. I'm fine with that. Keeping the
10 first paragraph, keeping the last paragraph.

11 THE COURT: Okay.

12 MS. CRAGER: No objection.

13 THE COURT: All right. That's what we'll do.

14 Now, is that it?

15 MS. LYDON: No. Because 916 --

16 THE COURT: Look, I told you I don't want to have the
17 jury sitting there. Since the time I said that, we've had
18 several minutes of discussion, all of which -- 100 percent of
19 which has resulted in the two of you coming to an agreement.

20 So we have to sit there with that jury, all those people
21 that came here to hear this trial, sitting in there, twiddling
22 their thumbs while you come to agreements on things that you
23 could have agreed on some other time. I'm not going to do it
24 anymore. If we have to talk about this now, I'm going to send
25 the jury home until after lunch, and we can talk about it.

1 What do you want to do? Do you want to bring them back?
2 Do you want to agree, or do you want me to send them home until
3 after lunch?

4 MS. CRAGER: We'd like to move on with the jury, Your
5 Honor. And if there is an objection, we'll make an objection
6 in the moment.

7 THE COURT: Well, the next question there will
8 probably be an objection and we'll send the jury back out
9 again.

10 All right. Bring the jury in.

11 So far, what we've agreed upon is that -- I'm not going to
12 try to summarize it. But we've redacted exhibit -- certain
13 exhibits. And when we get to those, I would hope that you
14 would redact them suitably so that the jury can't read through
15 what you've done --

16 MS. LYDON: We're working on it.

17 THE COURT: -- before you show them to the jury.

18 MS. LYDON: We're working on doing that. The
19 government did already redact a number of exhibits. But -- we
20 didn't realize the --

21 THE COURT: Bring the jury in.

22 MS. LYDON: -- this intense of a sentence-by-sentence
23 objection.

24 (Jury present, 10:53 a.m.)

25 THE COURT: All right. The jurors are all present.

1 Defendant is still present with counsel.

2 I'm sorry, ladies and gentlemen, but I do believe that the
3 time that we take outside of your presence to go over some of
4 these legal matters ultimately results in saving you some time.

5 I think I told you yesterday that the evidence from which
6 you have to decide what the facts are consists of not only the
7 sworn testimony of the witnesses but any exhibits that are
8 received in evidence.

9 And so when the lawyers offer an exhibit into evidence, I
10 have to be careful that we don't receive something that you
11 shouldn't receive or that we do receive everything that you
12 should, because at the end of the trial, when you're
13 deliberating on your verdict, you will have all the documents
14 that are received in evidence in the room with you. And so I
15 don't want to let something come in that's just going to do
16 nothing but confuse you, which is literally thousands of pages.

17 So what I tried to get the lawyers to do is to tell me
18 exactly which pages, which parts they really want you to see so
19 when you get into the jury room at the end of the trial, you
20 are looking at the relevant evidence and not just a lot of
21 papers.

22 So I think we went a long way toward that. And they're
23 going to hopefully tell us now exactly which pages and which
24 parts of pages they really want you to see. And then I'll rule
25 upon whether those can be received in evidence. And if they

1 are, they'll be evidence in the case.

2 So I hope we've saved you some time. But I don't like the
3 fact that we bring you all the way into court here and then
4 just have you sit in a room while lawyers argue with the judge.
5 I'm trying to avoid that as much as I can.

6 All right. So let's proceed.

7 MS. LYDON: All right. Thank you.

8 Q. BY MS. LYDON: Mr. Crouch, welcome back.

9 A. Thanks.

10 Q. We're going to zip through this manual.

11 A. Okay.

12 Q. I want to ask you about a couple provisions. But first,
13 what -- were tandem examiners allowed to have people help them
14 with the courses?

15 A. Yes.

16 Q. What were those people called?

17 A. Evaluators.

18 Q. Okay. Whose final responsibility was it to sign off that a
19 tandem instructor candidate had learned all the things they
20 needed to know to jump out of that plane with a customer?

21 A. It was the examiner that managed the entire course, along
22 with the evaluators.

23 Q. Okay.

24 MS. LYDON: Move to admit page 126.

25 THE COURT: Of Exhibit 80?

1 MS. LYDON: Yes.

2 MS. CRAGER: No objection, Your Honor.

3 THE COURT: Page 126 of Exhibit 80 is received in
4 evidence.

5 (GOVERNMENT'S EXHIBIT 80, PAGE 126 ADMITTED INTO EVIDENCE.)

6 MS. LYDON: Thank you. Please publish.

7 Q. BY MS. LYDON: All right. Does this section at the top of
8 page 180, Evaluators are appointed by the instructor
9 examiner --

10 THE COURT: You mean 126? You said 180.

11 MS. LYDON: I'm sorry. Of Exhibit 80, page 126.

12 THE COURT: Yes.

13 Q. BY MS. LYDON: Does it describe that, Evaluators are
14 supervised by the instructor examiner who is responsible for
15 all evaluations?

16 A. That's correct.

17 Q. All right. And then if we could zoom out of there.

18 And does the manual also state, at Subsection H, that in
19 order to become an instructor examiner, they have to administer
20 a course under the supervision of a current, appropriately
21 rated instructor examiner?

22 Is that right?

23 A. That's correct.

24 Q. Did USPA care about the currency -- the current rating
25 status of instructor examiners who taught courses?

1 A. Yes.

2 Q. Okay.

3 MS. LYDON: Can we move to admit page 128?

4 THE COURT: Any objection?

5 MS. CRAGER: No objection, Your Honor.

6 THE COURT: Exhibit 80, page 128 is received in
7 evidence.

8 (GOVERNMENT'S EXHIBIT 80, PAGE 128 ADMITTED INTO EVIDENCE.)

9 MS. LYDON: Thank you.

10 Q. BY MS. LYDON: If we look at Subsection 5 on Commencement
11 of Privileges, does this section describe when the privileges
12 of an instructional rating commenced?

13 A. Yes.

14 Q. With respect to a tandem instructor rating, did the
15 privileges to be a tandem instructor commence upon successful
16 completion of the rating course?

17 A. Yes.

18 Q. And after that, were they valid for 30 days with a
19 candidate logbook endorsement by the instructor examiner?

20 A. Yes.

21 Q. So after that endorsement by the instructor examiner, were
22 the tandem instructor candidates able to jump with the
23 public -- I'm sorry -- to conduct jumps?

24 A. Yes.

25 Q. And after those ten jumps that you described at the

1 beginning of this examination, were they able to jump with the
2 public?

3 A. Yes.

4 Q. The conferring of the ability to jump as a
5 parachutist-in-command only applies upon the actual signature
6 of the examiner; is that what that's saying?

7 MS. CRAGER: Objection. Leading.

8 THE WITNESS: That's correct.

9 THE COURT: Sustained. Sustained.

10 Re-ask the question in a different form.

11 Q. BY MS. LYDON: If the examiner wasn't actually currently
12 certified, did they have any ability to sign tandem instructor
13 forms certifying students?

14 A. No. If they weren't currently, they couldn't.

15 Q. Okay. Moving on to the provisions of the course that
16 applied to instructor examiners. Could we look at --

17 MS. LYDON: Move to admit Exhibits [sic] 165 through
18 166.

19 MS. CRAGER: No objection, Your Honor.

20 THE COURT: 165 through 166 of Exhibit 80?

21 MS. LYDON: Um-hum.

22 THE COURT: Those pages are received in evidence.

23 (GOVERNMENT'S EXHIBIT 80, PAGES 165-166 ADMITTED INTO
24 EVIDENCE.)

25 MS. LYDON: Could we publish 165, please.

1 Q. BY MS. LYDON: Does the manual state that an instructor
2 examiner is the highest of the three instructional ratings?

3 A. Yes.

4 Q. All right. And moving on to 167 --

5 MS. LYDON: Can we move to admit 167, if it hasn't
6 been.

7 MS. CRAGER: I believe it was admitted.

8 MS. LYDON: Could we publish 167, please.

9 THE COURT: Do you want to offer 167?

10 MS. LYDON: We're in agreement it's already been
11 admitted.

12 THE COURT: You say it's been admitted?

13 MS. CRAGER: We have no objection to 167.

14 THE COURT: All right. Hasn't been admitted yet.

15 There is no objection now; so Exhibit 80, page 167 is
16 received in evidence.

17 (GOVERNMENT'S EXHIBIT 80, PAGE 167 ADMITTED INTO EVIDENCE.)

18 MS. LYDON: Publish. All right.

19 Q. BY MS. LYDON: Does Subsection G deal with the requirements
20 of keeping a USPA instructor examiner rating current?

21 A. Yes.

22 Q. And was there an annual renewal provision?

23 A. Yes.

24 Q. And there is a number of specific requirements basically,
25 it wasn't -- if you get an instructor examiner, were you an

1 instructor examiner forever?

2 A. No.

3 Q. Okay. Did you have to satisfy requirements of the USPA?

4 A. Yes. You had to meet certain requirements to renew the
5 rating.

6 Q. All right.

7 MS. LYDON: Move to admit pages 193, 194 of this
8 document.

9 MS. CRAGER: No objection.

10 THE COURT: Exhibit 80?

11 MS. LYDON: Yes.

12 THE COURT: Pages 193 and 194 are received in
13 evidence.

14 (GOVERNMENT'S EXHIBIT 80, PAGES 193-194 ADMITTED INTO
15 EVIDENCE.)

16 Q. BY MS. LYDON: And does that section, Mr. Crouch, deal with
17 the instructor examiner responsibilities?

18 A. Yes.

19 Q. Can we look at 194, please.

20 Does the course records responsibilities of the instructor
21 examiner include a requirement that the candidate obtain
22 original proficiency cards or a copy for their own personal
23 records?

24 A. Yes.

25 Q. And was the instructor examiner also required to maintain

1 those records?

2 A. Yes.

3 Q. All right. Did USPA make -- eventually change its
4 processes and require examiners like Mr. Pooley to submit --

5 MS. CRAGER: Objection. Leading.

6 Q. -- candidate forms?

7 THE COURT: What's your objection?

8 MS. CRAGER: I'm sorry. Objection. Leading.

9 THE COURT: Sustained.

10 Q. BY MS. LYDON: What were, in the 2015/2016 era, USPA's
11 requirements with respect to who should submit the tandem
12 instructor forms?

13 A. They could be submitted by the candidate themselves or the
14 examiner.

15 Q. Okay.

16 MS. LYDON: Move to admit page 320 of this document.

17 THE COURT: Any objection?

18 MS. LYDON: I'm sorry. 327.

19 THE COURT: 327?

20 MS. LYDON: Which is a Tandem Instructor Rating
21 Course Proficiency Card. It is blank.

22 THE COURT: Not 320? You're offering 327?

23 MS. LYDON: 327.

24 THE COURT: Any objection?

25 MS. CRAGER: No objection, Your Honor.

1 MS. LYDON: And it goes into 328.

2 THE COURT: All right. Exhibit 80, pages 327 to 328
3 are received in evidence.

4 (GOVERNMENT'S EXHIBIT 80, PAGES 327-238 ADMITTED INTO
5 EVIDENCE.)

6 Q. BY MS. LYDON: All right. Do you recognize the document in
7 front of you, Tandem Instructor Rating Course Proficiency Card?

8 A. Yes.

9 Q. What is it?

10 A. That's the card that's used to track all the requirements
11 are done in the course. It's sort of like a checklist to just
12 make sure all the materials are covered and that the training
13 is covered and signed for the specific requirements for the
14 rating.

15 Q. Is -- the top right section here, Verifying Officials, does
16 it state that -- what you just said, that this is supposed to
17 record the candidate's requirements and that the level of
18 official verification is indicated with each requirement, each
19 of the undersigned certifies that he or she has personally
20 verified those qualifications listed?

21 A. Yes.

22 Q. Zooming out, are there a series of things that should be
23 done prior to arrival at the course?

24 A. Yes.

25 Q. All right. And can those be done by the candidate,

1 verified by people other than their actual examiner?

2 A. Yes.

3 Q. Moving to the second page, 328.

4 There are certain things that can be verified by -- like at
5 the top left, a supervising USPA tandem instructor -- is that
6 right? -- someone other than the examiner?

7 A. That's correct.

8 Q. All right. But other things, like item 9, who needs to
9 verify item 9?

10 A. The course examiner needs to verify that with the logbook.

11 Q. Okay. So although there are jumps that need to be done
12 prior to the course starting, is the examiner supposed to check
13 whether they have been done?

14 A. Yes.

15 Q. Okay. Moving on to the next section at the USPA instructor
16 rating course -- we don't have to blow it up, actually, just
17 yet -- are there a number of things that need to be signed off
18 by the examiner in particular --

19 A. Yes.

20 Q. -- indicated in bold? Okay.

21 There are also some items that can be signed off by
22 examiners -- sorry -- evaluators?

23 A. Yes.

24 Q. Okay. This rating recommendation section, does it state, I
25 have personally examined and recommend this applicant for the

1 USPA tandem instructor rating. He or she has demonstrated the
2 ability to train and jump with tandem students and to train and
3 supervise non-method-specific students for the USPA license?

4 A. Yes.

5 Q. It includes a requirement at the bottom there that the
6 tandem instructor examiner include their name, member number,
7 and signature.

8 Why is that?

9 A. Because, basically, he or she is verifying that everything
10 has been done and it's got my authority to issue the rating.

11 Q. Does USPA verify that signature?

12 A. Yes.

13 Q. And the very bottom box on the right of the page, it
14 includes a checklist for the course examiner verification and
15 indicates, in parentheses, Examiners, please verify the
16 following.

17 Is that right?

18 A. That's correct.

19 Q. And the very first item is the examiner membership and
20 their own rating expiration date; is that right?

21 A. That's correct.

22 Q. Okay. We are finished with this manual. Now let's move on
23 to your interactions with Mr. Pooley.

24 Do you recall that Pooley went through a disciplinary and
25 retraining process in 2014?

1 A. Yes.

2 Q. Were you copied on some of the correspondence with Pooley
3 pertaining to that?

4 A. Yes.

5 Q. Okay.

6 MS. LYDON: Move to admit Government's Exhibit 85. I
7 believe that is one that will have no redaction. The defense
8 can correct me if they have an objection to that.

9 THE COURT: We talked about 85. Let me get that.
10 Hold on a second.

11 What did we agree on 85, Ms. Crager? Do you recall?

12 MS. LYDON: I recall you indicated this one comes in.

13 MS. CRAGER: We do have an objection to the relevance
14 of the information.

15 MS. LYDON: But --

16 THE COURT: But with --

17 MS. CRAGER: I don't believe we agreed on a
18 particular redaction.

19 THE COURT: Well, we talked about a lot of these, and
20 I want to make sure I don't get the exhibits mixed up. So let
21 me just take a minute.

22 I, quite frankly -- go on to something else. I'm not
23 recalling what we said about this one. So we'll skip that one
24 for now and go on to the next one.

25 MS. LYDON: All right.

1 Q. BY MS. LYDON: Without discussing the particular document
2 at this time, do you recall whether USPA conducted an
3 investigation before deciding on the 2014 suspension?

4 A. I believe it was before 2014, yeah, there was.

5 Q. In 2014, do you recall that USPA notified Mr. Pooley
6 regarding the suspension?

7 A. Yes.

8 Q. And did -- do you recall whether USPA explained its
9 investigation to Mr. Pooley?

10 A. Yes.

11 Q. And did it explain -- without saying why, did it explain to
12 Mr. Pooley why it was suspending him?

13 A. Yes.

14 Q. Did it do so in some detail over the course of several
15 pages?

16 A. Yes.

17 Q. Now let's move on to 2015, the suspension most at issue in
18 this case.

19 MS. LYDON: Move to admit Government's Exhibit 905,
20 subject to the redactions discussed with the Court.

21 THE COURT: With that qualification, any objection?

22 MS. CRAGER: One moment.

23 No objection.

24 THE COURT: Exhibit 905 is received in evidence.

25 MS. CRAGER: With the redaction, I assume.

1 THE COURT: Correct.

2 (GOVERNMENT'S EXHIBIT 905 ADMITTED INTO EVIDENCE.)

3 Q. BY MS. LYDON: All right. This communication is dated
4 Friday, August 7th, from someone named Ray Lallo.

5 Who is he?

6 A. Ray Lallo, he was the secretary of the -- secretary of the
7 association -- secretary of the executive committee for the
8 board of directors of the association.

9 Q. Who is it e-mailed to?

10 A. Who did -- I'm sorry?

11 Q. Who did he send it to?

12 A. To -- sent it to Rob Pooley, to me, and to the president of
13 the association, Sherry Butcher.

14 Q. All right. Let's move on to the body of the letter.

15 All right. And Mr. Lallo advises, Dear, Mr. Pooley, it is
16 my duty, as the secretary of USPA --

17 MS. CRAGER: Your Honor, the document speaks for
18 itself.

19 THE COURT: It's in evidence. Anybody can read from
20 it.

21 Go ahead.

22 Q. BY MS. LYDON: All right. Does he inform Pooley of the
23 decision to suspend his coach examiner and USPA tandem
24 instructor rating for a period of one year beginning July 26,
25 2015?

1 A. Yes.

2 Q. Does it say what is required after the year suspension if
3 Pooley wants to get his rating back -- his examiner rating?

4 A. Yes.

5 Q. Okay. So was it automatic the rating be reinstated, or did
6 Mr. Pooley have to do something after July 26, 2016?

7 A. No. He would need to take steps to get it back. It
8 wouldn't be automatic.

9 Q. All right. And does it provide, in that final paragraph, a
10 process for Pooley to appeal?

11 A. Yes.

12 Q. Okay. Let's turn to 911.

13 MS. LYDON: Move to admit 911, which the Court ruled
14 in recess comes in.

15 THE COURT: Right. With the understanding --

16 MS. CRAGER: No objection, Your Honor.

17 THE COURT: Exhibit 911 is received in evidence.

18 (GOVERNMENT'S EXHIBIT 911 ADMITTED INTO EVIDENCE.)

19 Q. BY MS. LYDON: Okay. Did you, Mr. Crouch, have a specific
20 e-mail communication with Mr. Pooley to ensure he understood
21 the terms of the suspension?

22 A. Yes.

23 Q. Okay. We're going to go through those communications.

24 It starts -- the e-mail chain starts out with an e-mail
25 from you on 911, page 4. You advise -- can we -- we don't

1 actually have to look at that one.

2 But basically, did you advise him that you weren't going
3 to -- because he was suspended, USPA wasn't going to charge his
4 credit card for the next year?

5 A. Yes. That's correct.

6 Q. All right. Then did Mr. Pooley respond to you?

7 Let's look at page 911-002. We'll start with this e-mail
8 from Pooley to you on Monday, August 10th. It starts with,
9 Thank you, Jim. And then goes over to the next page.

10 Let's look at 911-003.

11 Did Mr. Pooley advise that the fee still needs to be paid
12 because he's already brought in another instructor examiner to
13 sign off on ratings?

14 A. Yes.

15 Q. And did he indicate in the next paragraph that he intends
16 to appeal?

17 A. Yes.

18 Q. And he's hired an attorney?

19 A. Yes.

20 Q. Moving on to the 911-002.

21 Did you respond to him, advising the process for the
22 appeal?

23 A. Yes.

24 Q. And inquiring, Who is the examiner you mentioned below that
25 will be using the fee to run courses at Lodi?

1 A. Yes.

2 Q. In the top e-mail on this page, does Mr. Pooley respond to
3 you, indicating that he's talked to several examiners?

4 A. Yes.

5 Q. And that Yuri Garmashov will be our primary instructor
6 examiner for now?

7 A. Yes.

8 Q. Now, moving to the first page of 911, on Friday,
9 August 28th, did you indicate that you got a call from a
10 candidate who was worried his ratings would not be processed;
11 he did not give a name; it sounded like he was currently in a
12 coach course with you from what he described -- I just wanted
13 to make sure that you understood that the suspension applies to
14 both coach and tandem courses?

15 A. Yes.

16 Q. You told him his instructional ratings are still in place?

17 A. Yes.

18 Q. And what did that enable him to do?

19 A. To jump as an evaluator in the courses.

20 Q. Okay. And did you tell him, But the courses must be run
21 completely by other examiners from start to finish?

22 A. Yes.

23 THE COURT: So what's an evaluator? We talked about
24 instructors and examiners. What is an evaluator?

25 THE WITNESS: An evaluator jumps with the candidates

1 in the courses. So he could --

2 THE COURT: Is that different than an instructor?

3 THE WITNESS: Yes.

4 THE COURT: You can go into that, if you want.

5 MS. LYDON: Sure.

6 Q. BY MS. LYDON: So who runs the courses? Who is in charge?

7 A. The examiner runs the whole course as the director of the
8 whole thing, in charge of the whole course.

9 Q. Does the USPA require the examiner be physically present
10 throughout the course --

11 A. Yes.

12 Q. -- or may he be offsite?

13 A. No. Physically present.

14 Q. Okay. What does the physical presence requirement mean in
15 the context of a tandem course?

16 A. On the airport property and ensuring that the course is
17 running, that he's -- that the -- besides the ground training,
18 he's also supervising evaluators who are helping with the
19 course. So they're acting as simulated students on these
20 evaluation jumps.

21 Q. The evaluators are acting as simulated students?

22 A. Yes.

23 Q. Okay. So the examiner -- to sum up your testimony -- let
24 me know if I have this right -- the examiner must be physically
25 present and supervising; is that right?

1 A. Yes.

2 Q. But he or she can ask other trusted persons to help with
3 the course?

4 A. Yes.

5 Q. Are they known as evaluators?

6 A. They're the evaluators, yeah.

7 Q. Okay. So your e-mail left off with, But the -- or that
8 first paragraph left off with, But the courses must be run
9 completely by other examiners start to finish.

10 Did Mr. Pooley respond to you?

11 A. Yes.

12 Q. And did he explicitly confirm, I understand the terms of
13 the suspension?

14 A. Yes.

15 Q. I am still helping with the courses, but I know they need
16 to be run by another instructor examiner?

17 A. Yes.

18 Q. Okay. And he indicates he does plan to do an appeal?

19 A. Yes.

20 MS. LYDON: Move to admit Government 912, subject --
21 with the redactions discussed with the Court.

22 THE COURT: With that understanding, any objection?

23 MS. CRAGER: No objection, Your Honor.

24 THE COURT: All right. Exhibit 912, as redacted, is
25 received in evidence.

1 (GOVERNMENT'S EXHIBIT 912 ADMITTED INTO EVIDENCE.)

2 Q. BY MS. LYDON: All right. Did Mr. Pooley appeal?

3 A. Yes.

4 Q. Let's move to the second page of this document with the
5 redaction.

6 All right. He advises he is appealing. His formal request
7 for an appeal. You can scroll to the next -- all the way down
8 to the next page.

9 Was it a fairly thorough appeal?

10 A. The --

11 MS. CRAGER: Objection. Vague.

12 Q. BY MS. LYDON: Did it appear to you that Mr. Pooley was
13 taking his suspension seriously?

14 MS. CRAGER: Objection. Relevance.

15 THE COURT: Overruled.

16 Q. BY MS. LYDON: Did it appear to you that he was --

17 A. Yes.

18 Q. -- taking his suspension seriously?

19 A. Yes.

20 Q. It mattered -- did it appear to you from this letter that
21 it mattered to him?

22 A. Yes.

23 MS. CRAGER: Objection. Foundation.

24 THE COURT: Well, I let the first one in -- he's
25 taking it seriously. "That it mattered" is a little vague. I

1 don't know what that -- if that's any different than taking it
2 seriously or not, but if it is, it may be -- it may be vague.
3 So I'm going to sustain the objection to that question.

4 If there is something else you're trying to ask him about,
5 you can rephrase the question.

6 MS. LYDON: Without getting in the substance of the
7 e-mail, I'm trying to convey what Mr. Pooley conveyed to USPA.

8 THE COURT: I thought you did when you asked him if
9 he took -- if he sounded like he took it seriously. That's
10 what I thought you were trying to convey.

11 MS. LYDON: That's sufficient.

12 THE COURT: Let me explain something else to the
13 jury.

14 You've heard a couple of references to something being
15 redacted. I'm trying to make it simpler on you, and that's why
16 all of these pages that you've heard us talking about are not
17 coming into evidence. They're not going to help you, in any
18 way, arrive at your decision as jurors.

19 Likewise, within some documents, there may be things that
20 are just not going to help you; they're going to confuse you,
21 and they're not necessary for you to know or understand or have
22 anything to do with in reaching your verdict in the case. So
23 those may be redacted. And you're not to speculate as to why
24 something might have been redacted. There are always good
25 reasons for it.

1 Q. BY MS. LYDON: Did Mr. Pooley ever get his ratings back?

2 A. No.

3 Q. I think we're -- without going into any documents on this
4 -- and please answer this yes or no -- did USPA eventually
5 discover that a tandem instructor named YongHyeon Kwon had been
6 conducting tandem jumps without ratings?

7 A. Yes.

8 Q. Did USPA then investigate Mr. Pooley more broadly?

9 A. Yes.

10 Q. In response to what it learned, did USPA put in place a
11 retraining requirement with respect to certain students?

12 A. Yes.

13 Q. Did the students who needed to be retrained need to pay for
14 a new -- retraining courses themselves?

15 A. Yes.

16 Q. All right. One last topic. And this is just foundation
17 for a document that will come in later.

18 In connection with what we just discussed, did you
19 personally look for records of students trained by Pooley
20 and/or Garmashov?

21 A. Yes.

22 Q. Did you find records -- some records?

23 A. Yes.

24 Q. Did you find records that had been sent by Pooley to Susan
25 Sullivan?

1 A. By Pooley what? I'm sorry.

2 Q. To Susan Sullivan.

3 A. Yes.

4 Q. Who is Susan Sullivan?

5 A. Susan Sullivan was my assistant in the department. She
6 processed all rating and license applications.

7 Q. What was her title?

8 A. Her title was license and rating coordinator.

9 Q. All right. Where was she based geographically?

10 A. In Virginia.

11 Q. Did you work with her frequently?

12 A. Yes. Every day. Every weekday.

13 Q. Did she regularly receive tandem proficiency cards?

14 A. Did she regularly -- I'm sorry. I'm a little deaf.

15 Q. Did she, as a regular practice, receive tandem proficiency
16 cards sent by examiners?

17 A. Oh, yes.

18 Q. Was that a regular practice of USPA, to receive such
19 documents?

20 A. Yes.

21 Q. When Ms. Sullivan received those documents from examiners,
22 did she make a record of the fact that she received it?

23 A. Yes.

24 Q. What did she do to make that record?

25 A. She would -- the records would be batched into -- they were

1 called batch files. So they'd be processed, put in batch
2 files, and then stored in the document room.

3 Q. Okay. Was that process of printing batched files and
4 storing them in the document room a regular practice of USPA?

5 A. Yes.

6 Q. Did the document room have a nickname?

7 A. I think they call it the dungeon.

8 Q. Were they stored in roughly chronological order?

9 MS. CRAGER: Objection. Leading.

10 THE COURT: Overruled.

11 THE WITNESS: Yeah. Everything was stored in -- by
12 date -- by month and year -- by each day of the month.

13 Q. BY MS. LYDON: Did USPA make a record of the e-mail
14 communication to Susan Sullivan as well?

15 A. Yes.

16 Q. And were the -- the e-mails and the cards, were they stored
17 together or separately?

18 A. Little of both. Usually separately. The e-mail would be
19 in electronic archive unless there was something that needed to
20 be noted with the rating paperwork, and then it would be
21 attached with the -- with the physical paperwork.

22 Q. In your review, did you find tandem instructor cards that
23 were stapled together with the e-mails and the cards stored in
24 the same place?

25 A. Yes.

1 Q. Was that done as a regular practice?

2 A. Yes.

3 Q. Did USPA rely on the records stored in the dungeon
4 regularly?

5 A. Did USPA do what?

6 Q. Rely on those records?

7 A. Oh, yes.

8 MS. LYDON: Nothing further. Thank you, Mr. Crouch.

9 THE COURT: All right. Ms. Crager, you may
10 cross-examine.

11 MS. CRAGER: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. CRAGER:

14 Q. Good morning, Mr. Crouch.

15 A. Good morning.

16 Q. Mr. Crouch, in August and September of 2016, you were
17 looking into paperwork for candidates trained by Rob Pooley and
18 Yuri Garmashov?

19 A. August 2013?

20 Q. I'm sorry. 2016.

21 A. 2016. Yes.

22 Q. You were trying to determine which people were trained by
23 Yuri and which were actually trained by Rob Pooley with Yuri
24 signing off?

25 MS. LYDON: Objection. Outside the scope.

1 THE COURT: Well, except with the mention of this
2 last name -- who did you say --

3 MS. CRAGER: Yuri Garmashov is the person --

4 THE COURT: I know, but did you mention somebody
5 else?

6 MS. CRAGER: Rob Pooley as well.

7 THE COURT: I thought you mentioned a third person.
8 No. Overruled.

9 Q. BY MS. CRAGER: Is that what you were trying to determine?

10 A. In some cases. I mean, in some, it was obvious, but
11 others, it -- it was -- it took a little determination, yeah.

12 Q. And you were trying to determine this because the Parachute
13 Association only wanted to issue ratings to people who were
14 properly trained with an actual examiner?

15 A. That's -- I mean, that's not why I was looking through
16 those records.

17 Q. Let me rephrase that.

18 Is that one of the things that you were trying to
19 determine?

20 A. If somebody was -- trying to determine who needed
21 retraining.

22 Q. Sure. And a person who would need retraining is a person
23 who was trained by Rob Pooley when Yuri Garmashov was not
24 there?

25 A. Correct. Or also, we determined to retrain everyone that

1 had been trained by Rob Pooley with his signature -- not full
2 retraining but partial retraining.

3 Q. I understand. But the people who needed full retraining
4 were the people who had been trained by Rob Pooley when Yuri
5 Garmashov wasn't there?

6 A. Not entirely.

7 Q. Not entirely.

8 That was one -- one of the categories of people you were
9 looking for?

10 A. Correct.

11 Q. Your understanding was Yuri Garmashov was a valid examiner?

12 A. Correct.

13 Q. And if Rob Pooley was participating in the course run by
14 Yuri Garmashov or supervised by him, then that would be a
15 proper certification?

16 A. Correct.

17 Q. I want to talk about a few of the candidates who were
18 trained by Yuri Garmashov.

19 Do you recall a person named Gavin Creagh?

20 MS. LYDON: Outside the scope. Objection.

21 THE COURT: What's the relevance?

22 MS. CRAGER: Your Honor, this goes to alleged
23 misrepresentations by Rob Pooley that he could get these people
24 their ratings and he did actually get them their ratings.

25 THE COURT: All right. Overruled.

1 You may answer the question.

2 Q. BY MS. CRAGER: Do you recall a person named Gavin Creagh?

3 A. I do not, without -- not off the top of my head.

4 Q. Would it help to look at the spreadsheet that you made?

5 A. Yes.

6 Q. Okay. I'm going to --

7 MS. CRAGER: If I may approach, Your Honor? I'll
8 pull a binder out.

9 THE COURT: All right. You can tell him which one
10 you want him to look into.

11 MS. CRAGER: Sure. It's Binder 7, Exhibit 2129.

12 MS. LYDON: I'm going to object, Your Honor, to
13 introducing the contents of a spreadsheet on a topic not
14 covered on direct.

15 THE COURT: I haven't seen it.

16 Is it a spreadsheet?

17 MS. CRAGER: I don't intend to introduce it. I'm
18 just trying to refresh his recollection, Your Honor.

19 THE COURT: You can look at it to refresh your
20 recollection.

21 Do you have the binder there?

22 MS. LYDON: I'm also objecting as to relevance.

23 THE COURT: All right. I've overruled the objection
24 on relevance.

25 Q. BY MS. CRAGER: Do you have the spreadsheet in front of

1 you?

2 A. What number is it?

3 Q. I'm sorry. 2129.

4 A. Binder 7?

5 Q. Yes.

6 A. I've got 300 --

7 MS. CRAGER: Your Honor, may I approach? I think he
8 has the wrong binder.

9 THE COURT: Yes. It's probably that you -- you have
10 your binders, and they have their binders.

11 Q. BY MS. CRAGER: Is this a spreadsheet that you're familiar
12 with?

13 A. I -- I remember creating a spreadsheet, yeah, and using it
14 for -- for the process.

15 Q. And looking at the first page of that spreadsheet, does
16 that help you remember whether you were aware of a person named
17 Gavin Creagh at the time you made the spreadsheet?

18 A. At the time I -- I dealt with all these names. I -- I
19 don't remember anything specific about that name, no.

20 Q. But it was a name that you put on a spreadsheet?

21 A. It's a name on a spreadsheet, yeah.

22 Q. And is it a person -- sorry. Is he a person for whom
23 you --

24 MS. LYDON: Objection, Your Honor. The process of
25 refreshing recollection is show the document, you take it away,

1 and you ask.

2 THE COURT: That's true. It hasn't refreshed his
3 recollection.

4 MS. CRAGER: Sure.

5 Q. BY MS. CRAGER: Do you recall whether you issued -- I'm
6 sorry -- whether the Parachute Association issued a rating for
7 Gavin Creagh?

8 A. I don't specifically recall. But I would assume, if he was
9 in this spreadsheet, yeah, there was a rating issued.

10 Q. Could you take a look at the spreadsheet and see if it
11 refreshes your recollection --

12 MS. LYDON: Objection.

13 Q. -- about whether he was on the spreadsheet?

14 THE COURT: The question -- I think I better look at
15 the spreadsheet.

16 But the question is is it going to refresh your
17 recollection as to whether he was issued a license? Right?

18 MS. CRAGER: It's a spreadsheet that he made about
19 licenses being issued to certain people.

20 THE COURT: So that's all right. You can look at the
21 exhibit.

22 And the question is does that refresh your recollection as
23 to whether he was issued a license?

24 MS. CRAGER: Yes, Your Honor.

25 THE COURT: All right.

1 THE WITNESS: Again, I would say if his name is in
2 this spreadsheet, then he was issued a rating. But I don't
3 specifically remember any -- any detail or anything special
4 about this one person, no.

5 Q. BY MS. CRAGER: I understand.

6 You would have put him on a spreadsheet if you had issued
7 him a rating?

8 A. Yep.

9 Q. How about a person named Michael Jeffet. Do you remember
10 whether you issued him a rating?

11 MS. LYDON: Objection.

12 THE COURT: Overruled.

13 MS. LYDON: My objection is to the process of --

14 THE COURT: Right.

15 MS. LYDON: -- of having this exhibit in front of
16 him.

17 THE COURT: But that -- no. That's all right. I
18 think it's an appropriate process. He can look at the exhibit,
19 and if it does refresh his recollection as to the names of
20 these people, he can say that. But beyond that, if he -- if he
21 knows that the fact that the person is on the spreadsheet means
22 something else, he can say that.

23 How do you spell the person's last name?

24 MS. CRAGER: J-E-F-F-E-T.

25 THE WITNESS: Same answer. If he was on the

1 spreadsheet, he was probably issued a rating. But I don't
2 remember anything specific about it.

3 Q. BY MS. CRAGER: By looking at the spreadsheet, does that
4 remind you whether or not he was on the spreadsheet?

5 A. Remind me what? I'm sorry.

6 Q. By looking at the spreadsheet, does it remind you that he
7 was on the spreadsheet?

8 A. Yes.

9 Q. And there is one more I wanted you to look at, if you don't
10 recall. Richard Keir. K-E-I-R.

11 A. Again, he's on -- he's on the spreadsheet, but I don't
12 remember any specifics or any specific dealings with that --

13 Q. You would have put him on the spreadsheet if he received a
14 rating --

15 A. Yes.

16 Q. -- is that correct?

17 Thank you. You can put that aside.

18 Now I wanted to talk to you a little bit about the manuals
19 -- the Parachute Association Instructor Rating Manual.

20 That's the one that you wrote; is that correct?

21 A. I wrote and managed, but not in its entirety. But yeah.

22 Q. And you developed the idea for that manual?

23 A. Not me on my own. I mean, I worked with a lot of people on
24 it. But yeah.

25 Q. The manual was intended to be a comprehensive -- sorry --

1 comprehensive curriculum?

2 A. Yes.

3 Q. For rating courses?

4 A. Yes.

5 Q. Including the tandem instructor rating course?

6 A. Yes.

7 Q. It was updated frequently?

8 A. Yes.

9 Q. The manual was intended for the Parachute Association --
10 Association to communicate instructions about the rating
11 courses?

12 A. That's correct.

13 Q. To the skydiving community?

14 A. Yes.

15 Q. There was another manual called the Skydiver's Information
16 Manual?

17 A. Yes.

18 Q. You also wrote part of that manual?

19 A. Yes.

20 Q. It had information about how to get Parachute Association
21 licenses?

22 A. That's correct.

23 Q. And how to get ratings?

24 A. Yes. Where to go to get ratings, yeah.

25 Q. It was available online?

1 A. Yep.

2 Q. For free?

3 A. Yep.

4 Q. And it was also intended to communicate to the entire
5 skydiving community?

6 A. Correct.

7 Q. I'd like to look now at Exhibit 80 that the government
8 admitted.

9 Let's see. Do you still have that with you, or should I
10 help you re-locate it?

11 A. I'm not quite sure where it was.

12 THE COURT: That's a big exhibit. So why don't you
13 point out which part of it you want him to look at.

14 MS. CRAGER: I'm hoping that you'll look at page 2.

15 THE WITNESS: I've got the wrong one.

16 MS. LYDON: Page 2 is not in evidence.

17 THE COURT: No, but she wants him to look at it.

18 MS. CRAGER: Yes.

19 THE COURT: Don't ask him about the contents unless
20 you're going to offer it into evidence.

21 MS. CRAGER: I will offer it into evidence, Your
22 Honor.

23 I'm sorry. May I approach?

24 THE COURT: Yes. It was up there earlier. It's the
25 whole manual.

1 THE WITNESS: 80, page what?

2 MS. CRAGER: Page 2.

3 THE WITNESS: Page 2.

4 Q. BY MS. CRAGER: Are you at page 2?

5 A. Yep.

6 Q. Thank you. This is not a page that the government attorney
7 asked you about, correct?

8 A. It is not, no.

9 Q. This is an important notice to the skydiving community?

10 A. Yes.

11 MS. CRAGER: Your Honor, I move to admit page 2 of
12 Exhibit 80.

13 THE COURT: Any objection? You were going to offer
14 the whole thing; so I don't think you have an objection, do
15 you?

16 MS. LYDON: If we're going page by page, I don't
17 quite understand the relevance.

18 THE COURT: All right. Well, let me look at it.

19 MS. CRAGER: Your Honor, it goes to the care and
20 vigilance that the students were supposed to exercise as to the
21 duty --

22 MS. LYDON: I don't --

23 THE COURT: Wait a minute. Wait a minute.

24 No. No. Why -- no. You want to open the Pandora's
25 Box?

1 MS. CRAGER: Your Honor, the government has made the
2 claim that it's a very dangerous sport --

3 THE COURT: It is a dangerous sport. You agree to
4 that. Everybody agrees to that. Right?

5 MS. CRAGER: Yes, Your Honor.

6 This notice is telling people that they have responsibility
7 for themselves as well. The ultimate responsibility is with
8 the person doing the skydiving.

9 THE COURT: The objection is sustained.

10 I've looked at paragraph 2, and the prejudicial effect
11 outweighs the probative value.

12 MS. CRAGER: So I was intending to look at other
13 parts of that same page, on page 2.

14 THE COURT: Other parts. Okay.

15 MS. CRAGER: The portions I intended to introduce was
16 the second sentence on the page and then two other sentences on
17 the second column.

18 THE COURT: This case is not about safety, is it?

19 MS. CRAGER: No, Your Honor.

20 THE COURT: Then I'm sustaining the objection to all
21 of page 2.

22 MS. CRAGER: Understood, Your Honor.

23 Q. BY MS. CRAGER: I'd like to go next to page 8, which has
24 already been admitted. If we could pull up page 8, please.

25 This manual is intended for both candidates and examiners?

1 A. Yes.

2 Q. The purpose of this manual is to provide necessary course
3 outlines, all related support materials for both candidates and
4 examiners of instructional courses; is that correct?

5 A. That's correct.

6 Q. Instructor candidates, the students in the classes, are
7 expected to read the manual?

8 A. That's correct.

9 Q. Now, this portion, portion B, is it directly addressed to
10 the candidates?

11 A. Yes.

12 Q. And the candidates are the people in the course learning
13 how to be tandem instructors, correct?

14 A. That's correct.

15 Q. One of the things the candidates are directed to be aware
16 of is the requirements for getting their rating?

17 A. That's correct.

18 Q. And they're advised, You must complete all the requirements
19 listed in the outline and on the proficiency card to qualify
20 for your rating?

21 A. That's correct.

22 Q. The proficiency card is the document that you went through
23 with the prosecutor, showing where all the signatures should
24 go?

25 A. Right.

1 Q. This section also refers the candidates to the introduction
2 and orientation section of the course outline?

3 A. Correct.

4 Q. So let's turn to that. It's already been admitted as well,
5 page 128. 126. I'm sorry.

6 So this section is meant to be read by tandem instructor
7 candidates?

8 A. I'm sorry. Is what?

9 Q. This is part of the section for the tandem instructor --
10 instructor course?

11 A. That's correct.

12 Q. And the candidates are advised about who may conduct this
13 course?

14 A. Correct.

15 Q. And that would include --

16 I'm sorry. Zoom in on this.

17 That would include a tandem examiner?

18 A. Yes.

19 Q. We can zoom out of that. Thank you.

20 This section, also about the tandem instructor course for
21 tandem instructors, also advises about the requirements for
22 what someone needs to do to be an examiner?

23 A. Correct.

24 Q. The tandem candidates are aware that the course should be
25 administered under the supervision of a current, appropriately

1 rated examiner?

2 A. Correct.

3 Q. Thank you. We can take that down.

4 I would like to discuss now what the Parachute Association
5 is and what it is not.

6 A. Okay.

7 Q. The Parachute Association is not a government agency?

8 A. That's correct; it is not.

9 Q. And it's not part of the government at all?

10 A. No.

11 Q. USPA stands for United States Parachute Association?

12 A. Correct.

13 Q. Which is a voluntary not-for-profit membership association?

14 A. Yes.

15 Q. It's an association of individuals who enjoy and support
16 the sport of skydiving?

17 A. That's correct.

18 Q. Is that how USPA bills itself on its website?

19 A. Yes.

20 Q. You testified earlier that the FAA, the government,
21 recognizes the Parachute Association?

22 A. That's correct.

23 Q. So I want to talk about what that means and what that
24 doesn't mean.

25 The -- what it means is that there is one regulation that

1 provides the requirements for operating a tandem parachute.

2 MS. LYDON: Objection. Calls for a legal conclusion.
3 Outside the scope.

4 THE COURT: Well, she's asking him if that's what it
5 means to be recognized by the FAA. And I, frankly, had the
6 same question in my mind when he said that on direct
7 examination. What does it mean to be recognized by the FAA?

8 Now, if she's stating it in a way that he can understand
9 it, then he can answer the question.

10 If he can't understand the question, then you can rephrase
11 it. So why don't you ask him the question again, and let's see
12 if he understands it.

13 Q. BY MS. CRAGER: Okay. There is one FAA regulation that
14 governs tandem skydiving?

15 A. There is one section.

16 Q. One section.

17 A. Yeah. Yes.

18 Q. Part of that section says that to operate a tandem
19 parachute, a person needs what's called a master parachute
20 license?

21 A. That's correct.

22 Q. And the parachute --

23 THE COURT: So from who, though?

24 MS. CRAGER: That's what I'm getting to, Your Honor.

25 THE COURT: Okay.

1 Q. BY MS. CRAGER: The Parachute Association is an
2 organization that can issue a master parachute license?

3 A. That's correct.

4 Q. So that's the extent to which the FAA recognizes the
5 Parachute Association?

6 A. Not entirely.

7 Q. The -- the master parachute license -- let's talk about
8 that -- is the Parachute Association D license?

9 A. Yes. It used to have the title of -- used to say D master
10 behind it, but USPA removed the titles around 2003.

11 Q. And the D license is what the FAA recognizes?

12 A. Yes.

13 Q. The license isn't actually issued by the government?

14 A. No.

15 Q. The license is provided by the USPA?

16 A. Correct.

17 Q. The Parachute Association. And the Parachute Association
18 is not the government?

19 A. No.

20 Q. The Parachute Association has rules above and beyond what
21 the law requires?

22 A. By "law," you mean --

23 Q. In this --

24 A. -- federal law?

25 THE COURT: What do you mean? FAA regulations --

1 MS. CRAGER: Yes.

2 THE COURT: -- or something else?

3 THE WITNESS: Yes.

4 Q. BY MS. CRAGER: For instance, the Parachute Association has
5 a rule that if you want to do a tandem skydive operating the
6 parachute, you need a tandem instructor rating?

7 A. That's correct.

8 Q. That is not what the federal regulation requires?

9 A. Not a USPA tandem instructor rating. It's not solely
10 required, no, by the FAA.

11 Q. What the regulation requires is a D license?

12 A. One of the requirements, yes.

13 Q. Right. It does not require a tandem instructor rating from
14 the USPA?

15 A. Not entirely. It recognizes -- the language says it must
16 have been trained by the manufacturer or an entity recognized
17 by the FAA, and -- which is -- USPA is the only other -- USPA
18 is the only one that meets that requirement.

19 Q. Right. I understand that.

20 I'm saying the license that you need under the regulation
21 is a D license?

22 A. Yes.

23 Q. Regulation does not discuss a tandem instructor rating?

24 A. No.

25 Q. That is not required under the regulation?

1 A. No.

2 Q. And I have one more question about the regulation.

3 That regulation concerns the person operating the
4 parachute?

5 A. Yes.

6 Q. I want to talk just briefly about the tandem instructor
7 course and the language used.

8 The Parachute Association is based in the United States?

9 A. Yes.

10 Q. And all of the forms and the textbook are in English?

11 A. Correct.

12 Q. Including the proficiency card that we went through earlier
13 with government counsel?

14 A. Yes.

15 Q. When foreigners take a rating course, the forms are still
16 in English?

17 A. Yes.

18 Q. And foreigners are expected to bring an interpreter if they
19 need one?

20 A. I would guess that would be the only way to handle it,
21 yeah, was with an interpreter, if they don't fully understand
22 English.

23 Q. Now I want to move on to what happened with Mr. Pooley's
24 ratings with the Parachute Association and his membership.

25 THE COURT: This might be a good time to take the

1 recess, then, if you're getting into a new subject.

2 MS. CRAGER: I actually only have about five
3 questions here; so we might want to finish this up.

4 THE COURT: All right. Let's finish it up.

5 MS. CRAGER: Okay. Thank you.

6 Q. BY MS. CRAGER: In August of 2016, the Parachute
7 Association decided not to reinstate Mr. Pooley's tandem
8 examiner rating?

9 A. Correct.

10 Q. Also in August of 2016, the Parachute Association suspended
11 all of his ratings?

12 A. Correct.

13 Q. The Parachute Association even suspended his membership?

14 A. Correct.

15 Q. And that all occurred in August of 2016?

16 A. Yes.

17 MS. CRAGER: Thank you. No further questions.

18 THE COURT: Is there any redirect?

19 MS. LYDON: Very briefly.

20 THE COURT: Do you want to see if we can finish that
21 before we take the noon recess?

22 MS. LYDON: I think I can do it.

23 I only have two topics, Mr. Crouch, that you covered with
24 Ms. Crager.

25 ///

1 REDIRECT EXAMINATION

2 BY MS. LYDON:

3 Q. First, she had you look at a spreadsheet. Do you recall
4 that?

5 A. The what? Spreadsheet?

6 Q. She had you look at a spreadsheet.

7 A. Yes.

8 Q. Okay. The fact that someone was listed on that spreadsheet
9 just meant you looked up records related to them, right?

10 A. Correct.

11 Q. You didn't do any -- the spreadsheet didn't reflect
12 anything about who actually trained that person, right?

13 A. Correct.

14 Q. It listed an examiner that was listed on their documents;
15 is that correct?

16 A. Correct.

17 Q. And the spreadsheet also included a variety of dates; do
18 you recall that?

19 A. Correct.

20 Q. Many of them in 2015, right?

21 A. Yes.

22 Q. Including with respect to two of the individuals she asked
23 you about, Mr. Jeffet and -- I'm forgetting the first
24 gentleman's name, but him as well?

25 A. Yes.

1 Q. All right. So just from that spreadsheet, you can't tell
2 whether their training was legitimate, can you?

3 A. No.

4 Q. And a number of people on that spreadsheet had to retrain
5 at their own expense?

6 A. Correct.

7 Q. All right. Now on to the second topic, the regulations.
8 This case is not about the FAA regulations. I just want to
9 clear up a couple quick things.

10 Is it right that under the FAA regulations, to conduct a
11 tandem jump with a customer, you need a USPA D license?

12 A. Correct.

13 Q. All right. And there are other regulations from the FAA
14 that pertain to tandem jumping as well?

15 A. Yes.

16 Q. One requirement is that the tandem instructor be trained in
17 the use of the tandem parachute rig?

18 A. Correct.

19 Q. And another one is that they have taken a course either by
20 the parachute rig manufacturer or by another organization
21 approved by the FAA?

22 A. Correct.

23 Q. And does USPA offer courses that are approved by the FAA?

24 A. Yes.

25 Q. And do they offer trainings in the use of the various

1 parachute -- the tandem parachute rigs?

2 A. Yes.

3 Q. So is that what you meant when you were saying there were
4 other ways --

5 A. Yes.

6 Q. -- that the USPA can satisfy the regulation?

7 A. Yes.

8 MS. LYDON: All right. Nothing further.

9 THE COURT: All right. Any recross?

10 MS. CRAGER: Yes, Your Honor. Briefly.

11 RECROSS-EXAMINATION

12 BY MS. CRAGER:

13 Q. Just going back to the spreadsheet from earlier, you did
14 actually do other investigation to find out if these people
15 were properly trained?

16 MS. LYDON: Objection. Outside the scope.

17 THE COURT: I'm going to sustain the objection. Not
18 just because it's outside the scope but because it would be
19 hearsay.

20 MS. CRAGER: Well, he -- he was just asked that he
21 did not do any investigation. I am attempting to show that he
22 actually did do an investigation to determine --

23 THE COURT: Right. But I thought the question was
24 related to whether Mr. Pooley was the -- Mr. Pooley was the one
25 who trained them.

1 MS. CRAGER: Let me rephrase.

2 Q. BY MS. CRAGER: The people we discussed earlier -- Gavin
3 Creagh, Michael Jeffet, Richard Keir -- you did determine that
4 they were properly trained by a valid examiner, namely Yuri
5 Garmashov?

6 A. I couldn't say yes or no. I don't recall.

7 Q. Can you look at Exhibit 2137?

8 MS. CRAGER: Your Honor, may I approach?

9 MS. LYDON: I'm going to object to relevance and
10 outside the scope.

11 THE COURT: Let's see what it is first. I don't know
12 what it is.

13 MS. LYDON: I object to the question, regardless of
14 the exhibit, as to what he determined about various candidates
15 and the adequacy of their training.

16 THE COURT: You already covered that. It's come in
17 on cross-examination. So the subject is relevant at this
18 point.

19 Now, what -- it's Exhibit 2137?

20 MS. CRAGER: Yes.

21 Q. BY MS. CRAGER: And my question is you confirmed with Yuri
22 Garmashov that he had trained these people that you issued
23 ratings to?

24 THE COURT: The objection is sustained. That's
25 hearsay.

1 MS. CRAGER: That's fine, Your Honor.

2 THE COURT: Any other questions?

3 MS. CRAGER: No, Your Honor.

4 THE COURT: All right. Is there any reason why
5 Mr. Crouch should not be excused at this time?

6 MS. CRAGER: No, Your Honor.

7 MS. LYDON: No, Your Honor.

8 THE COURT: All right. Thank you for coming,
9 Mr. Crouch.

10 THE WITNESS: Thank you, sir.

11 THE COURT: You're excused.

12 And we will take the noon recess, ladies and gentlemen.
13 Remember the admonition. And we will resume at 1:30.

14 (Recess taken, 12:02 p.m. - 1:31 p.m.)

15 THE COURT: Everyone is present.

16 You may call your next witness.

17 MS. LYDON: Thank you, Your Honor. The United States
18 calls Willard Jay Stokes.

19 THE CLERK: Sir, please step forward, all the way up
20 to the witness stand, and remain standing.

21 Please raise your right hand.

22 (The Witness, WILLARD LEE STOKES, is sworn.)

23 THE WITNESS: I do.

24 THE CLERK: Thank you. You may be seated.

25 Please state your full name. Spell your last name for the

1 record.

2 THE WITNESS: My full name is Willard Lee Stokes. My
3 nickname is Jay.

4 THE CLERK: Thank you. Can you spell your last name
5 for the record?

6 THE COURT: Spell your last name.

7 THE WITNESS: S-T-O-K-E-S. I'll make sure you hear
8 in my good ear.

9 DIRECT EXAMINATION

10 BY MS. LYDON:

11 Q. Good morning, Mr. Stokes.

12 A. Good morning.

13 Q. Or afternoon now.

14 A. Yes, ma'am.

15 Q. What do you do for a living?

16 A. Well, currently, I'm the military manager for Skydive
17 Elsinore in Lake Elsinore, California. Along with that, I'm
18 also still an examiner for USPA and for the manufacturers of
19 different tandem equipment.

20 Q. Did you train Robert Pooley as an examiner in 2010 and then
21 retrain him again in 2014?

22 A. Yes, I did.

23 Q. All right. Before delving into your interactions with
24 Mr. Pooley, I'd like to just run through a very brief overview
25 of your career, skydiving generally and with the manufacturer

1 and USPA.

2 Okay?

3 A. Okay.

4 Q. All right. When did you get into skydiving?

5 A. I started jumping out of airplanes in 1974. I started in
6 the Army. I did 24 years in the Army. I was in special
7 forces. I liked it so much that I kept jumping as a -- as a
8 military and also as a civilian. I'm a military free fall
9 instructor. I worked at the schoolhouse for the Army, which is
10 the proponent --

11 THE COURT REPORTER: I'm sorry. You've got to slow
12 down.

13 THE WITNESS: Oh. Sorry. Can I continue?

14 Q. BY MS. LYDON: Yes, please.

15 A. Okay. So I've worked as an examiner for USPA since 1984 --

16 Q. All right. Let's start, then, with USPA.

17 A. Okay.

18 Q. Were -- what kind of examiner were you for USPA?

19 A. Initially, there was only one rating that we had. That was
20 a static line instructor rating. So I was an instructor
21 examiner as a static line person.

22 Q. Were you a tandem instructor?

23 A. Yes. I became a tandem instructor in 1984, '85 time frame.

24 Q. Okay. And did you become an instructor examiner for the
25 tandem system?

1 A. Yes. That would have been in 1989.

2 Q. Okay. So you've held certifications with USPA and the
3 manufacturer? Did you say that?

4 A. Yes, ma'am. All US manufacturers for tandem equipment.

5 Q. Okay. Who manufactures most tandem equipment in the United
6 States?

7 A. In the United States, that would be the United Parachute
8 Technologies.

9 Q. Do they have an acronym that they're known by?

10 A. UPT.

11 Q. Does that sound a lot like -- or share a number of letters
12 in common with the United States Parachute Association?

13 A. Yes, ma'am, it does. USPA and UPT are quite well-working
14 together for a long time.

15 Q. Okay. I'll try to refer to UPT as the manufacturer and
16 USPA as USPA or the Parachute Association. Okay?

17 A. Very good.

18 Q. All right.

19 You've described how you were an examiner and a tandem
20 instructor. Did you hold other roles with the manufacturer in
21 your career?

22 A. Yes. In 2004, I became what we would call a program
23 manager. So I started training examiners in the field on the
24 equipment, not just for USPA but also for UPT.

25 Q. Okay. How many UPT -- the manufacturer, how many program

1 managers did they have at the time?

2 A. At that time, just myself. Just one.

3 Q. And what did you -- were you -- you said that as the
4 program manager, you trained the examiners?

5 A. Yes, ma'am.

6 Q. Were you the only person in the country at the time
7 authorized, then, to train examiners for the manufacturer?

8 A. Actually, the only person in the world.

9 Q. Okay. And did you hold that role in 2010 and 2014?

10 A. Yes. From -- from 2004 to 2014. Later that year, Tom
11 Noonan was hired by the manufacturer to take my role. It
12 wasn't that I was doing a poor job; they just had a person to
13 come in and change things up.

14 Q. So you moved out of that role --

15 A. Exactly.

16 Q. -- and someone else moved into it?

17 A. Exactly.

18 Q. Okay. Did you also hold some roles with the United States
19 Parachute Association over the course of your career?

20 A. Yes, ma'am.

21 Q. Can you just run through briefly what roles you held?

22 A. I'm an instructor examiner for everything the USPA does, to
23 include creating examiners.

24 Q. Okay. So you trained examiners for USPA?

25 A. Exactly. In static line and what we call accelerated free

1 fall, which is a little bit of a different program, tandem, and
2 also instructor assisted deployment.

3 Q. Okay. Did you hold management-type roles with USPA?

4 A. Yes. I was on the board of directors for, what, 12 years
5 total. While I was on the board of directors, I was the vice
6 president for a term, president for three terms, and the
7 chairman of the board for one term.

8 Q. Okay. Around what date range were you in management with
9 USPA?

10 A. 2007 until 2016 or '19 -- '19.

11 Q. Okay. 2007 to 2019.

12 Let's turn now to your role training Mr. Pooley.

13 Did Pooley take a tandem examiner course from you?

14 A. Yes, in 2010.

15 Q. Could you take a look in the -- one of the binders behind
16 you at Government's Exhibit 102. And I can come help you find
17 the correct binder.

18 Do you recognize that document?

19 A. Yes, I do.

20 Q. Briefly, just what is it?

21 A. It's a tandem examiner certification form for Mr. Rob
22 Pooley. And it's endorsed by myself.

23 MS. LYDON: Move to admit Government 102.

24 THE COURT: Any objection?

25 MS. CRAGER: No objection, Your Honor.

1 THE COURT: Exhibit 102 is received in evidence.

2 (GOVERNMENT'S EXHIBIT 102 ADMITTED INTO EVIDENCE.)

3 MS. LYDON: Thank you. Please publish.

4 Q. BY MS. LYDON: As you said, it's a tandem examiner
5 certification form for Robert Pooley.

6 Person who signed it down here, as you testified, is
7 yourself. Is that your signature?

8 A. Yes, ma'am.

9 Q. And date seems to be December 2, 2010; is that right?

10 A. That is correct.

11 Q. All right. And you have some jumps recorded. The dates
12 for those look like December 1, 2010; is that right?

13 A. That is correct.

14 Q. Okay. What did it mean when you signed the --

15 We can zoom out of that.

16 A. That I found the individual candidate to be satisfactory or
17 met the standards to attain that particular rating.

18 Q. And who was the candidate?

19 A. Rob Pooley.

20 Q. And what was the rating?

21 A. That would be tandem examiner.

22 Q. All right. Let's talk now about the things that you taught
23 Mr. Pooley that convinced you that he met that standard.

24 A. Okay.

25 Q. Before discussing particular aspects of the course, could

1 you just give us a brief, like, one-minute overview of what you
2 taught Pooley and other examiner candidates in that 2010
3 examiner course?

4 A. Okay. Basically, what we're required to do is to ensure
5 the examiners are able to train other folks -- other people as
6 tandem instructors. To that end, we usually start off with
7 introductions. We continue with the actual equipment, how the
8 equipment functions, specifics about that. We move on into how
9 to teach, how to train aircraft procedures, free fall
10 procedures, everything, to include emergency procedures.

11 And normally, emergency procedures are the last thing we
12 teach, because we need them to be very good at teaching
13 those -- that subject, because in a given environment, a
14 stressful situation, we need the person to perform to standard.

15 Q. Okay. You mentioned you taught Pooley how to teach.

16 A. Yes, ma'am.

17 Q. How is teaching someone how to teach all of those things
18 that you just discussed different than teaching someone just
19 how to do them?

20 A. Okay. Well, if I want to train someone from the jury to
21 put a harness on a student, I could show them, but how do I
22 know they understand how to do it? I would have to evaluate
23 their ability to do that particular subject. So we wouldn't
24 just train them on how to do it. Then we would go the next
25 step and have them train each other.

1 So kind of like a round robin, I guess would be the best
2 way to do it. We're not just training them on how to put a
3 harness on a student but how to teach somebody to teach
4 somebody else how to do that particular subject.

5 And it -- and it goes along with everything else in the
6 program. You have to teach them how to teach canopy control
7 for tandem. It's different. You're not jumping by yourself.
8 Every jump you make is with a different passenger who weighs
9 different poundage. So the aerodynamic of what they're flying
10 is directly affected by the amount of suspended weight. So
11 things change.

12 So trying to get that -- those points across can be very
13 difficult. That's why we need somebody that has a lot of
14 experience, for instance, to be a tandem instructor -- or --
15 sorry -- to be a tandem examiner. You have to have 500 tandem
16 jumps. So you have to have experience as that person before
17 you can move forward to train another person to be in that
18 role.

19 Q. That makes sense.

20 So to become a tandem instructor, you have to have how many
21 solo jumps?

22 A. 500 solo jumps.

23 Q. And then to become an examiner, you have to have how many
24 tandem jumps?

25 A. 500 tandem jumps.

1 Q. So fair to say you have to have mastered being a tandem
2 instructor before you can teach somebody else to do it?

3 A. Yes. That's the intention.

4 Q. Okay. What did you teach Mr. Pooley in your course with
5 the requirement of the examiner personally being present during
6 the whole course?

7 A. Throughout training -- and this is -- whether it's tandem
8 or anything else, you know, our policy, our requirement is to
9 be present and attentive. In other words, I need to physically
10 be there when you're training somebody to do something. I have
11 to evaluate performance. And the only way to do that is to
12 observe somebody else teaching a subject.

13 That said, the examiner that's in the field, who is not
14 necessarily under supervision in the field, we trust them.
15 They're doing the same thing. They're required to be
16 physically present. You can't just watch a video and do this.

17 Q. Okay. Can you explain more about what you told Mr. Pooley
18 about what he should be doing, while he was present in the
19 course, to be attentive?

20 A. Well, everything -- everything is in our guideline. We
21 have a very specific guideline from the manufacturer.

22 And, again, we're talking just the manufacturer right now.

23 Q. Right now, yes.

24 A. We have a very specific guideline that outlines in detail
25 what's taught per subject area. We call it the modules. Each

1 module is very specific to -- in nature to whatever that
2 particular information is, whether it be a tandem harness on a
3 student or canopy control, let's say. Emergency procedures is
4 the longest module because it's the most involved and probably
5 the most stressful portion --

6 MS. CRAGER: Objection, Your Honor. I would say this
7 is nonresponsive and not relevant.

8 THE COURT: Well, it is, generally. If he seems to
9 be wandering from your question, ask the next question so you
10 stay on track.

11 MS. LYDON: Thank you, Your Honor. I think we can
12 break it down a little.

13 Q. BY MS. LYDON: So you mentioned the guidelines.

14 A. Yes, ma'am.

15 Q. All right. Did you mention that UPT, the manufacturer, put
16 out guidelines for the training of tandem examiners?

17 A. Of course they do.

18 Q. And did those guidelines focus on specific ways that the
19 examiners needed to be physically present and attentive?

20 A. Yes, ma'am.

21 Q. Did you go over those guidelines with Pooley?

22 A. Yes. That's mandatory.

23 Q. Please turn in your binder to Government's Exhibit 100.

24 Do you recognize that document?

25 A. Yes, I do.

1 Q. What is it?

2 A. It is the Tandem Examiner Guidelines for Certification of
3 Tandem Instructors with the Vector/Sigma System. This is the
4 11th edition, dated April 21, 2010.

5 Q. All right. Did you provide that document to Mr. Pooley in
6 your course?

7 A. Yes.

8 Q. How?

9 A. I actually put together binders with the guidelines in it,
10 along with other documentation to support training, and also
11 DVDs and other CDs so that they would have the -- the
12 availability of other documents required to conduct the course.

13 Q. And did you go over particularly relevant and important
14 portions of those guidelines, Government's Exhibit 100, with
15 Mr. Pooley?

16 A. Yes, ma'am.

17 Q. All right. I'm going to move to admit portions of it,
18 starting with the first page, so the jury can just see what the
19 document looks like.

20 MS. LYDON: Move to admit Government's Exhibit 100,
21 page 1.

22 MS. CRAGER: No objection.

23 THE COURT: All right. So these are the
24 manufacturer's guidelines, right?

25 THE WITNESS: Yes, sir.

1 THE COURT: All right. Page 1 of Exhibit 100 is
2 received in evidence.

3 (GOVERNMENT'S EXHIBIT 100, PAGE 1 ADMITTED INTO EVIDENCE.)

4 Q. BY MS. LYDON: 11th Edition, April 21, 2010, appears on the
5 front. Do you see that?

6 A. Yes, ma'am.

7 Q. Would this document -- these guidelines have been in force
8 when you trained Mr. Pooley in December of 2010?

9 A. Yes, ma'am.

10 Q. There is a drawing of someone who appears to have suffered
11 a mishap.

12 What is that object above the parachutist?

13 A. It's called a drogue.

14 Q. Okay.

15 A. Do you need me to explain that?

16 Q. No.

17 THE COURT: Has he suffered a mishap, or is he just
18 in free fall?

19 MS. LYDON: You know, you're right. It's a happier
20 picture than I -- this was the first time I noticed this aspect
21 of it; so I wanted to flag that in case anyone else appeared
22 disconcerted.

23 THE COURT: It says "uninsured" underneath it. I
24 started to worry.

25 MS. LYDON: Yeah.

1 Q. BY MS. LYDON: Maybe just briefly describe what's happening
2 in this -- in this, apparently, according-to-plan fall.

3 A. Okay. What's under -- what they're suspended by is called
4 a drogue. The drogue is about 54 inches in diameter. It's
5 extended out after they leave the aircraft so that it helps to
6 slow them down in free fall.

7 And then also, at the appropriate deployment altitude, they
8 would release the drogue, and it would become what we call a
9 pilot shoot. It would actually collapse a little bit and then
10 start the deployment process for the main canopy.

11 Q. So in this picture -- or this drawing, only the drogue has
12 been deployed, right?

13 A. Correct.

14 Q. To slow the pair down?

15 A. To normal free fall speeds, which is 120 miles an hour.

16 Q. Okay. And the main parachute has not been deployed?

17 A. Not yet.

18 Q. Okay. Please turn in your binder to the sixth page of
19 Government's Exhibit 100. There are little yellow exhibit
20 stickers that tell you what page you're at. 100-6.

21 A. Are we talking page 100 or --

22 Q. I can help you.

23 A. Okay.

24 Q. Do you recognize page 6?

25 A. Yes, ma'am.

1 Q. Did you go over page 6 with Mr. Pooley?

2 A. Yes, ma'am. We went over the document cover to cover.

3 MS. LYDON: Move to admit page 6.

4 THE COURT: Any objection?

5 MS. CRAGER: No objection.

6 THE COURT: Page 6 of Exhibit 100 is received in
7 evidence.

8 (GOVERNMENT'S EXHIBIT 100, PAGE 6 ADMITTED INTO EVIDENCE.)

9 MS. LYDON: Let's publish.

10 Q. BY MS. LYDON: All right. Does this page deal with the
11 requirements to be certified as a tandem instructor?

12 A. Yes, ma'am.

13 Q. Did you go over with Mr. Pooley the requirement that in
14 order to become a tandem instructor for UPT, an applicant must
15 make at least five jumps under the direct supervision of a
16 qualified and currently rated tandem Vector/Sigma examiner?

17 A. Yes, ma'am.

18 Q. Direct supervision is underlined and bolded?

19 A. Yes, ma'am.

20 Q. Did you -- did you spend more time on the things that were
21 emphasized in the manual?

22 A. I made sure that the candidate, no matter who the candidate
23 is, they need to understand direct supervision means present
24 and attentive.

25 Q. Okay. It also mentions a qualified and currently rated

1 examiner?

2 A. Yes, ma'am.

3 Q. Did you go over with Mr. Pooley anything with respect to
4 that requirement?

5 A. Yes. That it is the responsibility of that candidate or
6 the tandem examiner to renew their ratings on an annual basis
7 through the manufacturer. And we went into detail on how to do
8 exactly that.

9 Q. Okay. If we could zoom out. Actually, Vector and Sigma,
10 what are those?

11 A. There are two types of tandem systems. The Vector was the
12 original system built back in '83, '84 time frame that we used
13 for a very long time. The Sigma came on the market in the
14 early 2000s.

15 Q. Okay. Are they both made by UPT?

16 A. Yes, ma'am.

17 Q. It goes over particular jumps for which the examiner needs
18 to be present and attentive. They're listed below that
19 paragraph we just went over.

20 A. Yes, ma'am.

21 Q. Did you go over each of those jumps with Mr. Pooley?

22 A. Yes, ma'am. We have to do that.

23 Q. And why?

24 A. To make sure that there is no doubt in his mind what the
25 physical standard is or what the critical standards are to

1 accomplish those particular jumps prior to moving on into what
2 we call Phase 2.

3 Q. Okay. And we won't spend much time with them, but I just
4 want to briefly go over those five jumps.

5 Are the -- and the five jumps are the ones that need to be
6 done in the presence of the examiner; is that what you just
7 testified?

8 A. That is correct.

9 Q. Okay.

10 MS. LYDON: Move to admit Government's 100, 7 and
11 100-8.

12 THE COURT: Any objections?

13 MS. CRAGER: No objection, Your Honor.

14 THE COURT: Is it page 7 and 8 of 100?

15 MS. LYDON: Yes.

16 THE COURT: All right. Pages 7 and 8 of Exhibit 100
17 are received in evidence.

18 MS. LYDON: Thank you.

19 (GOVERNMENT'S EXHIBIT 100, PAGES 7-8 ADMITTED INTO
20 EVIDENCE.)

21 Q. BY MS. LYDON: So that first one, the familiarization jump,
22 what's that? You don't have to read it all, but just tell us
23 what it is.

24 A. Basically, it's either a solo jump done by the candidate
25 that's wishing to become an instructor, or it's a passenger.

1 If it's in the passenger mode, the instructor that's jumping
2 with that person would basically work with them, train them on
3 what the person that they're going to jump later is going to
4 feel like.

5 There is an adage, walk a mile in someone else's shoes. We
6 want to make sure that the candidates that are going to become
7 instructors understand what the passenger or the student is
8 feeling when they're going through this process. And it wakes
9 people up a little bit.

10 Q. Okay. So one way that you could do this familiarization
11 jump is to -- the instructor candidate would jump wearing the
12 full tandem rig but with no passenger out in front; is that
13 correct?

14 A. That's correct. That is correct.

15 Q. Okay. Now can we flip to page 007 of this document.

16 All right. And then here is Jump 2, the other one you were
17 describing?

18 A. Right.

19 Q. Where the applicant acts as passenger; is that right?

20 A. That is correct.

21 Q. Okay. Is that also called a front ride?

22 A. Yes, ma'am.

23 Q. Okay. Then there are the category proficiency jumps. For
24 these jumps, the applicant acts as the tandem instructor while
25 carrying an experienced jumper; is that correct?

1 A. That is correct.

2 Q. Okay. And that jumper doesn't have to be an examiner, does
3 it?

4 A. No. They -- but they must be an experienced skydiver.

5 Q. Okay. Does the examiner select those people?

6 A. Yes.

7 Q. Okay. And we don't have to go through each of them in
8 detail, but Jump 3 and Jump 4, are they designed to teach the
9 candidate particular skills?

10 A. Yes. To take them through that process that they're going
11 to continue to use in their tandem instructor career.

12 Q. Okay. Can we flip to page 8.

13 A. Sure.

14 Q. All right. Is this also intended to teach the candidate a
15 particular skill?

16 A. Yes. Jump Number 5 is specific. We call it terminal
17 because we want the candidate to exit in an unstable attitude,
18 gain stability without use of the drogue, and then in
19 drogue-less free fall show that they can control that part of
20 it, that free fall.

21 It also allows them the opportunity to see what it feels
22 like, the speed, the other things that can happen in free fall.
23 And to understand that if you are in that -- in that -- get
24 that feeling of speed, that something is not right with the
25 system. So it serves two purposes.

1 And then, of course, they're going to deploy the drogue
2 approximately 8,000 feet, 2,000 feet above the deployment
3 altitude for the canopy, and it seems to work out pretty well.
4 It gives them that opportunity to see what it feels like in the
5 future. If they ever feel that way again, there are things
6 that we teach them to -- to take action with.

7 Q. So all the candidates who are tandem instructors have
8 already had at least 500 solo jumps, right?

9 A. Yes.

10 Q. So they know what free fall feels like with their old rigs?

11 A. Yes.

12 Q. But tandem equipment is different, right?

13 A. Exactly.

14 Q. How? How is the free fall experience different in a way
15 that they really need to be trained on?

16 A. Well, the average person -- we call it terminal velocity --
17 it's 120 miles an hour. With tandem, you've got another person
18 with you plus 50 pounds of gear. It's actually 58 pounds. So
19 in free fall, you could reach speeds of 170 to 180 miles per
20 hour. That's a big difference.

21 Q. Okay. And did Pooley -- did you train Pooley --

22 A. Yes.

23 Q. -- that he needed to be present and attentive for each of
24 these five jumps?

25 A. Yes.

1 Q. Did he have to be -- were there particular vantage points
2 that you trained him he could be present and attentive from?

3 A. I stress in courses that I conduct to have the examiners
4 ride on the front because if something does go wrong, that's
5 the best person to have in that position. However, that's not
6 mandatory. They can be in a safety position where they're
7 flying outside. They can use a video camera to video the
8 process. So there are other places the person can be, but
9 they've got to be present and attentive.

10 Q. Okay. Let's go over those particular positions that are
11 acceptable.

12 Could you turn to 047 in the same exhibit in front of you.

13 A. 47. Okay.

14 Q. Does 047 contain a discussion of the permissible ways that
15 the examiner can participate in those five certification jumps?

16 A. Yes, it does. There are five specific positions they could
17 be in.

18 Q. Okay. Let's --

19 MS. LYDON: I move to admit page 47 -- 047 of this
20 exhibit.

21 THE COURT: Is this still 100?

22 MS. LYDON: Um-hum.

23 THE WITNESS: Yes.

24 MS. CRAGER: No objection.

25 THE COURT: Is it page 47?

1 MS. LYDON: Yes, it is.

2 THE COURT: All right. Page 47 of Exhibit 100 is
3 received in evidence.

4 (GOVERNMENT'S EXHIBIT 100, PAGE 47 ADMITTED INTO EVIDENCE.)

5 MS. LYDON: All right. Can we please publish.

6 Thank you. All right. Zoom in there.

7 Q. BY MS. LYDON: All right. Your role during certification
8 jumps. Did you go over this page with Mr. Pooley?

9 A. Yes, I did.

10 Q. Do you go over it with every tandem examiner candidate?

11 A. Yes.

12 Q. All right. What are the five permissible positions that
13 the examiner can take during the certification jumps?

14 A. Could be in the instructor position, the student position,
15 as a solo observer --

16 Q. What does that mean?

17 A. Solo observer means you're in free fall with the candidates
18 and you're observing. You don't necessarily have video on, but
19 you are observing. The video, obviously you have a video
20 camera on, and you're videoing so you can use that in your
21 debriefing. And then as a ground observer, you could also be
22 there.

23 Q. What is AFF?

24 A. Accelerated free fall is a type of training method that we
25 use in skydiving. Normally, one or two instructors are holding

1 on to a student in free fall, and the student is required to
2 perform certain actions and deploy their own main parachute.

3 Q. Okay. This paragraph says, Tandem examiners -- the bottom
4 paragraph here, Tandem examiners must be present during the
5 execution of the five certification jumps. That means you must
6 perform in one of the five roles listed above. Direct
7 supervision means being present and participating during all
8 certification requirements. If the candidate wishes to qualify
9 for the USPA tandem rating, it's recommended that the candidate
10 perform the up to ten certification jumps with the examiner.

11 Do you see that?

12 A. Yes.

13 Q. Okay. This is a UPT -- the manufacturer -- document, but
14 it refers to a USPA requirement.

15 A. That is correct.

16 Q. You mentioned that they work closely together?

17 A. Yes, ma'am.

18 Q. Do -- does a typical tandem instructor candidate want both
19 certifications, in your experience?

20 A. If they're going to work in the United States, yes.

21 Q. Okay. So do their materials sometimes cross-reference each
22 other?

23 A. They do. As a matter of fact, USPA directly specifies in
24 its BSRs that we need to follow the manufacturer's rules of the
25 road, so to speak, their guidelines.

1 Q. Okay.

2 THE COURT: Well, I'm not sure that we all understand
3 this, then. If you're certified by the manufacturer, that
4 doesn't mean you're certified by USPA, right?

5 THE WITNESS: That's correct, sir.

6 THE COURT: So how do you -- we're talking right now
7 about you certified Mr. Pooley --

8 THE WITNESS: Yes, sir.

9 THE COURT: -- by the manufacturer.

10 THE WITNESS: Yes.

11 THE COURT: Did you have anything to do with
12 certifying him by USPA?

13 THE WITNESS: Yes, sir.

14 THE COURT: We haven't gotten to that yet.

15 MS. LYDON: I'll ask a clarifying question.

16 THE COURT: Okay.

17 Q. BY MS. LYDON: Did your course yield a certification for
18 Mr. Pooley for USPA and UPT?

19 A. Ultimately, it did.

20 Q. Okay.

21 A. But we had to go -- but we had to break it apart.

22 Q. All right. Tell us how.

23 I guess, first question, do you cover both the
24 manufacturer's requirements and the Parachute Association's
25 requirements and material in the same course?

1 A. Yes and no.

2 Q. All right. Could you explain that?

3 A. Well, they overlap. Okay. So you have to cover some of it
4 with -- while you're doing one thing, something else is going
5 to happen.

6 But ultimately, we also conduct what we call an instructor
7 exam and rating course for USPA. So it's an add-on. And in
8 that course, they're required to perform what we call skill
9 analysis. They observe a video. They have to debrief the
10 video with a candidate. They're required to teach other
11 classes, under direct supervision, for a score, to a standard
12 policy.

13 So they -- they actually -- they aid each other. I guess
14 that's the best way to put it.

15 Q. Okay. And you trained Mr. Pooley on both?

16 A. Yes, I did.

17 Q. Okay. Did you go over the USPA tandem examiner materials
18 as well with Mr. Pooley?

19 A. Yes.

20 Q. Okay. We've already gone over that material with another
21 witness; so we won't go through that with you, sir. Okay?

22 A. Sure.

23 Q. All right. Did -- does page -- page 047 indicate whether
24 UPT, the manufacturer, would take it seriously if it learned
25 that an examiner was not present for the certification jumps?

1 A. Yes.

2 Q. Does the guideline state that any reports of examiner
3 signing off on paperwork when they were not, in fact,
4 present -- in fact, they were not present during the entire
5 certification process will be aggressively investigated and
6 dealt with?

7 A. Yes.

8 Q. All right. So we've talked about the jumps and the
9 requirement that the examiner be physically present.

10 Did you teach Pooley anything about what he ought to be
11 doing, as an examiner, for the classroom portion of the course
12 he was teaching?

13 A. Yes.

14 Q. What did you tell him?

15 A. Well, specifically, he's got to -- he's got to teach those
16 modules, those pieces and parts, to make sure that the
17 person --

18 Q. Tell us again what modules are.

19 A. A module is a part. Let's say it's exits or aircraft
20 procedures or free fall, drogue fall procedures. In other
21 words, what has to be accomplished during this particular part,
22 this event. And that includes canopy control, landing, and
23 emergency procedures.

24 Q. Okay. You mentioned that he had to teach it?

25 A. Yes.

1 Q. All right. Is that something that the examiner should
2 personally teach?

3 A. Yes.

4 Q. Did you tell Pooley that?

5 A. Yes.

6 Q. I have a bad tendency to speak like it's a conversation.
7 We have to be careful not to talk over each other. So I think
8 you see where I'm going with a question, and you start
9 answering, but that's not ideal for the court reporter. So
10 I'll try to wait until you finish your answer, and wait until I
11 finish my question. Okay?

12 A. Yes, ma'am.

13 Q. Thank you.

14 All right. Did the UPT guideline cover the requirement of
15 the examiner's participation in the classroom portion of the
16 course?

17 A. Yes.

18 Q. Could you turn to page 017. It's now going backward in the
19 document in front of you.

20 Does 017 -- is that a portion of the guideline that you
21 covered with Mr. Pooley?

22 A. Yes.

23 MS. LYDON: Move to admit 017.

24 THE COURT: So we're clear, is this still part of
25 Exhibit 100?

1 MS. LYDON: It is, yes.

2 THE COURT: Exhibit 100, page 17 is received in
3 evidence.

4 MS. CRAGER: No objection.

5 (GOVERNMENT'S EXHIBIT 100, PAGE 17 ADMITTED INTO EVIDENCE.)

6 MS. LYDON: Let's publish. Thank you.

7 Q. BY MS. LYDON: Up top, Section D reads, Classroom Session.
8 This portion of the course will run approximately six to eight
9 hours. The tandem instructor training presentation will be
10 gone over, module by module, with continued discussion after
11 each module led by the examiner.

12 Is that what you taught Mr. Pooley?

13 A. Yes.

14 Q. And it notes, Never leave the candidate to review the
15 presentation without supervision.

16 Do you see that?

17 A. Yes.

18 Q. Can we zoom back out.

19 It also, at the bottom of the page, notes that once the
20 candidate is successful and has completed the certification
21 course, the examiner will file the necessary paperwork with the
22 United Parachute Technologies ASAP, within 3 days; is that
23 right?

24 A. Yes.

25 Q. Generally, did the examiner send in the documents for the

1 tandem instructors to UPT?

2 A. Yes.

3 Q. Okay. All right. We can zoom out.

4 One more section. Could you turn backwards again to 10 --
5 sorry -- 005 of the same document.

6 And is 005 a page that you went over with Mr. Pooley?

7 A. I'm sorry?

8 Q. Did you go over this page 005 with Mr. Pooley?

9 A. Yes, I did.

10 MS. LYDON: Move to admit 005.

11 THE COURT: All right. Any objection?

12 MS. CRAGER: No objection.

13 THE COURT: Exhibit 100, page 5 is received in
14 evidence.

15 (GOVERNMENT'S EXHIBIT 100, PAGE 5 ADMITTED INTO EVIDENCE.)

16 Q. BY MS. LYDON: Does the last sentence of the paragraph on
17 the screen, in Section 1 -- the last two sentences, I suppose,
18 again emphasize that each examiner must supervise their tandem
19 candidates during the viewing of the training presentation?

20 A. Yes.

21 Q. This isn't supposed to be a do-your-own-distance-learning
22 project?

23 A. No. This is not distance learning; this is direct
24 supervision.

25 Q. Okay.

1 A. Must be present.

2 Q. Okay. Before you certified Mr. Pooley in 2010, were you
3 satisfied that he knew everything he needed to know about the
4 obligations of being a tandem examiner?

5 A. Yes.

6 Q. And that he could train other people?

7 A. Yes.

8 Q. In 2014, did you retrain Mr. Pooley on the requirements of
9 being a tandem examiner?

10 A. Yes. I was asked to retrain him. And I did just that.

11 Q. Were you on correspondence sent to Mr. Pooley around his
12 need to be retrained?

13 A. Yes.

14 Q. And did the correspondence describe to Pooley in detail the
15 specific issues that were being seen and USPA and UPT's
16 investigation of those issues?

17 A. Yes.

18 Q. Can you turn --

19 We're going to switch binders. I'll help you find the
20 right one. But I'm going to ask you to turn to Government's
21 Exhibit 901.

22 Take a minute to look it over. And do you -- my question
23 will be do you recognize Government's Exhibit 901?

24 A. Yes, I do.

25 Q. Okay. What is it -- without describing the contents, just

1 what is it?

2 A. It's a -- a -- in this case, an e-mail from Tom Noonan at
3 UPT to Mr. Pooley. And I'm cc'd on this particular e-mail.

4 Q. All right. And does it describe the need for retraining?

5 A. Yes, it does.

6 MS. LYDON: Move to admit 901.

7 MS. CRAGER: Your Honor, I'd object as most of this
8 being irrelevant for reasons previously discussed, and 403.

9 THE COURT: All right. Let me look at it.

10 MS. LYDON: The proper relevance, Your Honor, is for
11 Mr. Pooley's knowledge of USPA and UPT's intense investigation
12 of paperwork discrepancies and the consequences.

13 THE COURT: One of the problems I have every time we
14 get into this is you -- you're equating UPT's requirements and
15 everything about their program to USPA's requirements, and I'm
16 not sure that's exactly what he has said. The relationship
17 between the two is not that clear to me.

18 So when you ask me to rule on the exhibit here, which the
19 subject is, UPT Tandem Examiner Rating Follow-up, I don't know
20 how that relates to USPA, even though there is a lot of
21 discussion about USPA in this e-mail.

22 MS. LYDON: May I ask a few more questions?

23 THE COURT: Yes.

24 MS. LYDON: That might eliminate that. All right.

25 Q. BY MS. LYDON: Mr. Stokes, you mentioned that USPA and UPT

1 closely coordinate. Do you recall that?

2 A. Yes, ma'am.

3 Q. Why do they coordinate so closely?

4 A. We provide reciprocity. In other words, if the
5 manufacturer recommends an action, then USPA will a hundred
6 percent follow suit and vice versa. If we have an issue with a
7 person that's doing business for the USPA that involves tandem,
8 then we want the manufacturer to follow suit. We call that
9 reciprocity.

10 Q. Okay.

11 THE COURT: I don't know what he said. Reciprocity
12 could be a legal term. They want the manufacturer to follow
13 suit. What does that mean?

14 MS. LYDON: Yeah. I'll -- I'll flesh that out, Your
15 Honor. Thank you.

16 THE COURT: I don't know.

17 Q. BY MS. LYDON: So do most individuals have ratings at the
18 same level with both the manufacturer and USPA?

19 A. Working in the United States, yes.

20 Q. Okay. And do most drop zones require a USPA rating?

21 A. Yes.

22 Q. And does -- at least with respect to tandem instructors, do
23 the regulations require a manufacturer rating?

24 A. Yes.

25 Q. Does USPA offer courses that satisfy the same requirement

1 under the regulations as the manufacturer courses?

2 A. Only when -- only when they are working under the auspices
3 of the manufacturer.

4 Q. Okay. Do most tandem instructor courses bequeath both USPA
5 and manufacturer ratings?

6 A. Yes.

7 Q. You mentioned reciprocity.

8 A. Yes.

9 Q. Do USPA and UPT coordinate closely with respect to tandem
10 ratings?

11 A. Yes.

12 Q. When USPA suspends someone's rating, does -- is there a
13 policy about what UPT does?

14 A. Yes. UPT almost a hundred percent of the time will follow
15 suit.

16 Q. Okay. So when an investigation is underway, do they
17 coordinate on that investigation?

18 A. Yes, they do.

19 Q. Is that what happened with respect to Mr. Pooley in 2014?

20 A. Yes, it did.

21 Q. Okay.

22 MS. LYDON: Does that clear up Your Honor's question?

23 THE COURT: Well, I don't know. He was suspended by
24 USP -- whatever the initials are -- USPA, right?

25 MS. LYDON: He was suspended by both, both in 2014

1 and 2015.

2 THE COURT: So this letter here is about his
3 suspension by UPT or his suspension by USPA or both?

4 MS. LYDON: Both.

5 THE COURT: I mean, this is sort of a loosey-goosey
6 thing. They follow each other? I mean, I don't understand.

7 And the fact that I don't understand it doesn't mean the
8 jury doesn't understand it, but it's hard for me to rule on --
9 on this exhibit because it's written by somebody from -- from
10 USPT -- or UPT, and he seems to be talking about the USPA
11 license application. And it makes no sense to me. So it
12 doesn't mean it doesn't make sense to the jury.

13 What's the question? And I'll rule on the objection.

14 MS. LYDON: So the relevance of it --

15 THE COURT: Just tell me the question, and I'll rule
16 on the objection.

17 MS. LYDON: I just moved to admit it.

18 THE COURT: Oh. You're moving to admit it?

19 MS. LYDON: Yes. For Pooley's knowledge of the way
20 that USPA, in conjunction with UPT, investigates paperwork
21 discrepancies.

22 THE COURT: All right. Is there anything in here
23 that you think needs to be redacted?

24 MS. CRAGER: Yes, Your Honor. If we could have a
25 sidebar, I can explain.

1 THE COURT: Okay. Let's talk at sidebar for a
2 second.

3 (Bench conference.)

4 MS. CRAGER: Your Honor, this is the same issue. It
5 goes into great detail about the --

6 THE COURT REPORTER: I'm sorry. I can't hear.

7 THE COURT: Why don't you point it out to me. You
8 said it goes into detail with the reasons for the suspension.

9 MS. CRAGER: So the suspension is about this person,
10 and it goes into --

11 THE COURT: The Magnani issue. Like I'm supposed to
12 know what the Magnani issue is.

13 MS. CRAGER: I think this also will greatly confuse
14 the jury about the need to know all of this information.

15 THE COURT: Okay. So where is it?

16 MS. CRAGER: That's his name.

17 THE COURT: Okay.

18 MS. CRAGER: It explains the exact paperwork issue.
19 And then it says things like, it places everyone involved in
20 the process at risk. I think that's highly prejudicial.

21 THE COURT: I don't know what it means. Risk of
22 what?

23 MS. CRAGER: Death.

24 THE COURT: I don't know. Maybe just risk of losing
25 their license.

1 MS. CRAGER: Sure. It's a major concern, the result
2 there is a skydiver out there that hasn't met the standards of
3 certification --

4 THE COURT: I don't see anything there talking about
5 safety.

6 MS. CRAGER: I think this is all at least very
7 confusing to the jury.

8 THE COURT: So why -- who is -- let me ask the
9 government.

10 Who is Exequiel Magnani?

11 MS. LYDON: He's an individual who Mr. Pooley
12 trained, and his -- his paperwork wasn't up to specification.
13 USPA and UPT investigated. Mr. Magnani lost his rating, and
14 Pooley was put on notice of the intensity of their
15 investigation. The same ruling that Your Honor made with
16 respect to Government's Exhibit 85 should apply to this. This
17 is relevant for his knowledge, and it's not unduly prejudicial.
18 It hasn't been admitted, but Your Honor did rule on it.

19 THE COURT: It hasn't; that's the point. My clerk
20 even asked me, Did you admit it? And I said, No. You followed
21 it up and asked some questions, and that was all right, but I
22 never received the exhibit in evidence.

23 MS. LYDON: But Your Honor did rule at sidebar that
24 it was --

25 THE COURT: No. The issue was relevant, not the

1 exhibit was relevant. I said the issue was relevant.

2 MS. CRAGER: This witness has already testified that
3 the -- the extent of the investigation into it was very
4 thorough and that Mr. Pooley knew about that. That's the point
5 that she's trying to get across.

6 MS. LYDON: That's not correct.

7 MS. CRAGER: That's already been put into evidence,
8 and I think the probative value --

9 THE COURT: You just wanted to show that he
10 appreciated that the consequences of not following the rules
11 and regulations could seriously result in his students not
12 receiving certifications. That was the purpose that I thought
13 it was relevant to put --

14 MS. LYDON: Correct, Your Honor.

15 THE COURT: Now you're telling me this is the same
16 thing. It may just be cumulative, then, because it's got a lot
17 of other things in here.

18 MS. LYDON: Well --

19 THE COURT: Didn't you, as effectively as you can,
20 already make the point? And I -- you even -- I even kind of
21 coached you a little bit, and I said that -- isn't the purpose
22 that you offered this prove that he took it seriously.

23 MS. LYDON: You know, I put -- I did that for that
24 particular exhibit, but Your Honor had already ruled that
25 exhibit comes in; so we were going to revisit that.

1 THE COURT: I don't know that I've ruled the exhibit
2 comes in. I said --

3 MS. LYDON: We -- sorry.

4 THE COURT: I thought I was just telling you that I
5 thought the issue was a valid issue to be discussed, not that
6 the exhibit necessarily came in.

7 MS. LYDON: Defense is going to argue -- they did in
8 opening -- that he didn't defraud his students; he was trying
9 to get them ratings. And the detail of this is relevant to
10 show his specific knowledge. It's not as powerful to say he
11 knew in general.

12 THE COURT: Does the government -- does the
13 government have to prove that he defrauded his students, or is
14 it -- is it sufficient that they just prove that he defrauded
15 the -- the -- the government or the -- the agency that he had
16 to report to?

17 MS. LYDON: We're -- we allege he defrauded his
18 students.

19 THE COURT: You allege he defrauded his students?

20 MS. LYDON: Yes.

21 THE COURT: I haven't been able to read all the way
22 through the indictment yet.

23 MS. LYDON: That's the allegation, and we have to
24 prove it, and that is their contention. So this is not unduly
25 prejudicial, and it is probative. So it should come in, in my

1 view. I won't spend a ton of time with it, but the detail of
2 it is more compelling than me just asking generally.

3 THE COURT: I don't see anything in here. If I did,
4 I would be concerned. But I don't see anything in here that
5 talks about safety or anything like that. These words that you
6 have, I think, are subject to other interpretations.

7 MS. CRAGER: I think that the reasons behind those
8 suspensions in 2014 is not --

9 THE COURT REPORTER: I can't hear.

10 MS. CRAGER: Sorry. The fact that his violations
11 place everyone involved in the process at risk --

12 THE COURT: The reasons are irrelevant, but she's
13 offering it for a different purpose. And unless this talks
14 about the reasons --

15 MS. CRAGER: Right. I'm saying that I think it's
16 403. I mean, the government has said in their opening the
17 reasons that he was suspended was for safety reasons --

18 THE COURT: We have to deal with that at some point.
19 We have to resolve that. And the only way I can resolve it is
20 if you just ask me to do it. But we haven't got there yet.

21 MS. CRAGER: Your Honor, I --

22 THE COURT: I'm going to let this in. It's not
23 unduly prejudicial.

24 MS. CRAGER: I -- I think that it will lead the jury
25 to make the conclusion that his -- his violation -- the nature

1 of the violation --

2 THE COURT: It will not lead the jury to the
3 conclusion that it has anything to do with safety or injuries
4 or anything like that, though. And so for that reason, I don't
5 think it's unduly prejudicial.

6 MS. CRAGER: Okay. I would at least ask for a
7 limiting instruction that this is only for the purposes of
8 showing that he -- the fact that the UPT or USPA investigated.

9 THE COURT: I'm not sure that would help. You might
10 want to think about that. That's kind of like letting them
11 make their argument for them.

12 MS. CRAGER: But I --

13 THE COURT: It may not even, in their mind, prove
14 that. When I say it's limited to that purpose, they may think
15 I --

16 MS. CRAGER: I understand. We can discuss limiting
17 instructions.

18 THE COURT: We can discuss that later. Right.

19 MS. CRAGER: Yes.

20 THE COURT: Okay.

21 MS. CRAGER: Thank you.

22 (Bench conference concluded.)

23 THE COURT: Years ago, when this courtroom was first
24 built, it had a number of features that we thought were really
25 innovative at the time, and one of them was this sound. And

1 it -- so what we have is -- ordinarily in a courtroom, the
2 judge will confer with the lawyers at what they call sidebar,
3 off to the side, so they don't have to excuse everybody from
4 the courtroom, and the lawyers and the judge can have a
5 conversation about legal issues that doesn't involve the jury.
6 So they said, Well, instead of the court reporter getting up
7 and moving over there and everything, we'll put a microphone
8 over there, and you can talk into the microphone. And to make
9 sure it doesn't get to the jury, we'll put this sound in the
10 background. So that's what we do. And that's why it sounds
11 like you're in an airplane when we go over there and talk. But
12 that's -- that's the purpose of it. One of the innovations of
13 the courtroom.

14 All right. Exhibit 901 is received in evidence.

15 MS. LYDON: Thank you, Your Honor.

16 (GOVERNMENT'S EXHIBIT 901 ADMITTED INTO EVIDENCE.)

17 MS. LYDON: Please publish.

18 Q. BY MS. LYDON: All right. Let's focus first on the
19 caption.

20 Who is Tom Noonan? You've mentioned him a couple times.

21 A. Tom Noonan was the tandem program manager for UPT at that
22 point in time.

23 Q. Rpooley; Mr. Pooley?

24 A. Yes.

25 Q. Who is mostjumps?

1 A. That would be me.

2 Q. Quickly, why is that your e-mail address?

3 A. Because I own the record for the most jumps in 24 hours.

4 Q. How many jumps did you do in 24 hours?

5 A. 640.

6 THE COURT: 640 divided by 24 --

7 THE WITNESS: Every 2 minutes, 15 seconds, sir.

8 THE COURT: You've got to get up there to jump out,
9 you know.

10 THE WITNESS: Yes, sir, you do.

11 Q. BY MS. LYDON: How many people were involved in achieving
12 that Guinness world record?

13 A. Over 125.

14 Q. All right. So Mr. Noonan e-mailed Mr. Pooley and copied
15 you on January 30, 2014. We can zoom out of there.

16 And Mr. Pooley -- Mr. Noonan notes, Hi, Rob. I just wanted
17 to check back in with you on the Exequiel Magnani issue.

18 We won't go into detail about all of the facets of the
19 Exequiel Magnani issue, but was Mr. Magnani someone trained as
20 a tandem examiner by Mr. Pooley.

21 A. He was being trained as a tandem instructor.

22 Q. Thank you very much. A tandem instructor by Mr. Pooley.

23 A. Yes.

24 Q. Mr. Pooley was the examiner; Mr. Magnani was the tandem
25 instructor?

1 A. Correct.

2 Q. All right. And in sum and substance, did UPT discover
3 several issues with regard to the paperwork submitted by
4 Mr. Pooley with respect to Mr. Magnani?

5 A. Yes.

6 Q. Okay. And did he not check certain things that he should
7 have, in sum and substance?

8 A. That is correct.

9 Q. Does the letter go into some detail about UPT's
10 investigation in conjunction with USPA?

11 A. Yes.

12 Q. Does this paragraph go over that a bit?

13 Does it note that Mr. Noonan was investigating Exequiel's
14 time in the sport with USPA?

15 A. Yes.

16 Q. Was that pretty typical, that USPA and UPT would work
17 together?

18 A. Yes.

19 Q. All right. And did Mr. Noonan note at the end of this
20 paragraph to Mr. Pooley, It is our expectation that you would
21 validate this particular item before accepting someone into
22 your course?

23 A. Yes.

24 Q. All right. This next paragraph goes into the consequences
25 for Mr. Magnani.

1 Do you see that?

2 A. Yes.

3 Q. Did UPT conclude that Mr. Magnani lacks the appropriate
4 rating and likely believes that he has the appropriate rating?

5 A. That is correct.

6 Q. And requests that Mr. Pooley reach out to Exequiel and
7 inform him that, in effect, he didn't have a rating; he is not
8 authorized to perform tandem skydives using any equipment
9 manufactured by UPT?

10 A. Yes.

11 Q. Zoom in on that last bit.

12 Does Mr. Noonan advise, I have cc'd your examiner course
13 director Jay Stokes on this e-mail so that he may be able to
14 assist you moving forward. As of today, you are being placed
15 on inactive status?

16 A. Yes.

17 Q. Does he advise that he's on inactive status until he
18 completes a retraining with you and you agree to recertify him
19 as having a thorough understanding of the expectations set
20 forth by the examiner rating?

21 A. That is correct.

22 Q. Okay. Can you take a look just one exhibit forward, at
23 902. It's a continuation of this. So other direction.
24 Forward.

25 This appears to be a -- what date is that document?

1 A. February 2, 2014.

2 Q. And it's a follow-up e-mail from Tom Noonan to Rob Pooley
3 without copying you, but does it reference a conversation with
4 you?

5 A. Yes.

6 Q. Who was the conversation with?

7 A. This particular one is regarding Exequiel.

8 Q. Does it reflect that you called Pooley and spoke with him
9 about Exequiel?

10 A. Yes.

11 THE COURT: Now I am going to give a limiting
12 instruction at this point because there are a lot of things
13 that are set forth in this letter that it says happened.
14 That's hearsay. And so you don't consider it for the --
15 proving the truth of anything that this letter says happened.
16 This letter is to be considered by you only to show what was
17 communicated from Mr. Noonan to Mr. Pooley; the fact that it
18 was communicated to him, not the fact that it's true.

19 You're all nodding; so I assume you understand.

20 Go ahead.

21 MS. LYDON: Thank you, Your Honor. Exactly.

22 Q. BY MS. LYDON: I want to ask you about the knowledge that
23 was imparted to Mr. Pooley through these communications.

24 MS. LYDON: I'd move to admit Government 902 for the
25 same reason.

1 THE COURT: Well, is it cumulative, or is it
2 something different?

3 MS. LYDON: It's two different things.

4 THE COURT: Well, okay. I have it here. Let me look
5 at 902.

6 MS. LYDON: Same topic.

7 THE COURT: About another person or what?

8 MS. LYDON: Same person.

9 THE COURT: Exequiel?

10 MS. LYDON: Um-hum.

11 THE COURT: The problem is I have to read this to
12 make sure I don't see anything here that creates a problem. So
13 give me a minute.

14 (Pause in proceedings.)

15 All right. I've read the first one. I'll have to read the
16 second one.

17 (Pause in proceedings.)

18 Oh, it's so complicated. It involves nothing that has to
19 do with -- with the facts of this case. You just are burdening
20 the jury with talks about how many jumps you can make --

21 MS. LYDON: The bottom of the e-mail and the attached
22 second page, that's the same exhibit. It's a continuation of
23 it. So, really, the only new thing is that first e-mail.

24 THE COURT: The first e-mail?

25 MS. LYDON: Yeah. The, Thank you for that update.

1 THE COURT: Oh. You don't want the second one?

2 MS. LYDON: The second one already came in as 901.

3 THE COURT: That's the same one?

4 MS. LYDON: Um-hum.

5 THE COURT: All right. So you just want the top one?

6 You probably don't object to the top one, do you?

7 MS. CRAGER: I think this is all not relevant as per
8 my previous objections, but I understand the Court's ruling on
9 that.

10 THE COURT: Let me look at it.

11 It says, When I contacted USPA regarding Exequiel, they
12 asked who the examiner was, and upon hearing that it was you --
13 in other words, hearing that it was Mr. Pooley -- they told me
14 that they -- USPA -- had already had a number of issues they
15 had been dealing with regarding your paperwork courses. I have
16 no idea as to the specifics as it's a USPA thing. But it
17 sounds like from what you said in your reply, you're a good
18 trainer, but you could just use some help sorting out your
19 paperwork side of things. That's not a unique situation,
20 talented examiners that struggle with paperwork compliance.
21 Every year or so, one or two do refresher training and get
22 themselves sorted out.

23 Number one, that's not anything to do with this case.
24 Nothing whatsoever to do with this case.

25 And, number two, it is quite favorable to Mr. Pooley.

1 So I'll sustain the objection. We can't go -- we can't go
2 so far astray as you're trying to go with all this. We just
3 can't keep doing it. It's going to distract the jury from the
4 issues in this case, which have nothing to do with him being a
5 good trainer, as this person says, or a bad trainer, as
6 somebody else says. Nothing to do with the evidence in this
7 case. They're not going to find him guilty, if I have anything
8 to say about it, because he's a bad trainer.

9 MS. LYDON: I'm certainly not trying to --

10 THE COURT: They're not going to acquit him, if I
11 have anything to say about it, just because he's a good
12 trainer.

13 MS. LYDON: I don't care whether he --

14 THE COURT: Okay.

15 MS. LYDON: I agree.

16 THE COURT: All right.

17 MS. LYDON: What I'm bringing this in for is very
18 different.

19 THE COURT: I'm not going to let you confuse the jury
20 anymore. So the objection is sustained.

21 MS. LYDON: All right.

22 Q. BY MS. LYDON: Mr. Stokes, did you call Mr. Pooley after
23 receiving that e-mail and go over the need for retraining with
24 him?

25 A. Yes.

1 Q. Do you remember that conversation?

2 A. That's a long time ago.

3 Q. Okay. Not in great detail, but in sum and substance, do
4 you remember what you said to him, what he said to you?

5 A. We need to get you back into the fold. We need to retrain
6 you specifically on administrative function and other things to
7 ensure that you do the right thing.

8 Q. All right. Did you, in fact, conduct retraining of
9 Mr. Pooley?

10 A. Yes, I did.

11 Q. Can you turn to Government's Exhibit 103. And I'll grab
12 that and the other binder.

13 Do you recognize the first page of Government's
14 Exhibit 103?

15 A. Yes.

16 Q. What is it?

17 A. It is a Tandem Instructor/Examiner Recertification Form.

18 Q. And what does it reflect?

19 A. It reflects that Rob Pooley, on said date, accomplished the
20 required training -- retraining, and he was reset as a tandem
21 examiner for United Parachute Technologies.

22 MS. LYDON: Move to admit the first page of
23 Government 103.

24 MS. CRAGER: No objection.

25 THE COURT: Page 1 of Exhibit 103 is received in

1 evidence.

2 (GOVERNMENT'S EXHIBIT 103, PAGE 1 ADMITTED INTO EVIDENCE.)

3 Q. BY MS. LYDON: All right. As you said, a Tandem
4 Instructor/Examiner Recertification Form signed by you. Is
5 that your signature?

6 A. Yes.

7 Q. And what's the date?

8 A. 2/7/2014.

9 Q. Is February 2014 approximately when you recertified
10 Mr. Pooley?

11 A. That's correct.

12 Q. Okay. We can zoom back out of that.

13 All right. Did you conduct a full retraining? Was it the
14 same course basically all over again for Mr. Pooley in
15 February?

16 A. Yes.

17 Q. Were there other participants in the course as well?

18 A. Yes.

19 Q. Did you curtail it at all because it was a retraining or
20 just do the whole thing?

21 A. No. Best to do the whole thing. Plus he can gain more
22 knowledge based on what he gets -- we get better with what we
23 do if we repeat it.

24 Q. And did some -- were some of those other candidates in the
25 examiner course new examiner candidates so they needed to take

1 the course for the first time?

2 A. Yes.

3 Q. All right. So did you go over all those same provisions of
4 the tandem examiner guidelines for UPT that we went over with
5 before?

6 A. Yes.

7 Q. Did you require him to bring those materials?

8 A. I actually provided a new set of documents.

9 Q. Okay. Would you have -- the other binder -- the binder
10 underneath that binder -- could you look at Government's
11 Exhibit 101.

12 A. 101. Yes.

13 Q. Do you recognize that document?

14 A. Yes.

15 Q. What is it?

16 A. Tandem Examiner Guidelines for the Certification of Tandem
17 Instructors. And this was dated January 2013.

18 Q. All right. Would that have been the guidelines that you
19 gave him for your 2014 retraining course?

20 A. Yes. This was the latest document.

21 Q. All right.

22 MS. LYDON: Move to admit pages 1, 006, 017, and 047
23 of Government's Exhibit 101.

24 THE COURT: Any objections?

25 MS. CRAGER: I'm just looking at those pages, Your

1 Honor. One moment.

2 THE COURT: It's 1, 6, 17, and 47.

3 MS. CRAGER: No objection, Your Honor.

4 THE COURT: Exhibit 101, pages 1, 6, 17, and 47 are
5 received in evidence.

6 (GOVERNMENT'S EXHIBIT 101, PAGES 1, 6, 17, 47 ADMITTED INTO
7 EVIDENCE.)

8 MS. LYDON: Please publish the first page of 101.

9 Q. BY MS. LYDON: Very similar looking, but still actually the
10 11th edition but January 2013; is that right?

11 A. That's correct. Sorry.

12 Q. Okay. Moving on to page -- publish page 006.

13 Do you see the same requirement of direct supervision in
14 2013?

15 A. Yes.

16 Q. And publish, please, 047.

17 Do you see that it emphasizes the same points about the
18 requirement that the examiner be present and attentive for each
19 of the five certification jumps?

20 A. Yes.

21 Q. And page 17, please.

22 Does it emphasize the same requirements that the tandem
23 instructor be present, participating, and going over, module by
24 module, with continued discussion, the entire classroom
25 portion?

1 A. Yes.

2 Q. Okay. Did you tell Pooley all of that again in 2014?

3 A. Yes.

4 Q. At the end of the course, did Pooley give you any
5 impression about whether he understood the requirements and
6 would take it seriously?

7 A. Yes.

8 Q. What was the impression he gave you?

9 A. The impression he gave me was that he could follow the
10 standard, he could follow the process or the modules, the
11 program and, in fact, train people to the specific standard
12 required so that they could conduct tandem jumps safely.

13 Q. All right. Did you -- in reliance on that, did you do
14 anything?

15 A. Yes. He had to physically perform just like he did before.
16 He had to teach. He had to do things.

17 Q. Did you -- so you taught him. And then after the course,
18 did you write anything certifying your impressions after the
19 course?

20 A. Yes. I wrote an initial letter of recommendation to
21 reinstate.

22 Q. Okay.

23 MS. LYDON: Nothing further. Thank you, Mr. Stokes.

24 THE COURT: We'll take a 15-minute recess now.

25 Remember the admonition, ladies and gentlemen. 15 minutes.

1 (Recess taken, 2:45 p.m. - 3:03 p.m.)

2 THE COURT: Everyone is present.

3 Ms. Crager, would you like to cross-examine?

4 MS. CRAGER: Yes, Your Honor. Thank you.

5 THE COURT: You may proceed.

6 CROSS-EXAMINATION

7 BY MS. CRAGER:

8 Q. Good afternoon, Mr. Stokes.

9 A. Good afternoon.

10 Q. I'd like to continue talking a little bit about the
11 manuals.

12 There is a binder in front of you; is that UPT's Sigma
13 Tandem manual?

14 A. Yes. It's one of the editions.

15 MS. CRAGER: I would move to admit the first page of
16 Exhibit 2000.

17 THE COURT: Any objection?

18 MS. LYDON: I -- I don't see, at this point, the
19 relevance or the foundation.

20 THE COURT: All right. I'll take a look at it.

21 MS. CRAGER: This is just a continued discussion
22 about the guidelines for the tandem instructor course.

23 THE COURT: The first page is just a picture. Is
24 that all you're offering?

25 MS. CRAGER: I will be offering other pages. I'm

1 just establishing that this is the manual for the Sigma
2 Tandem --

3 THE COURT: The first page is just a picture.

4 MS. CRAGER: Yes.

5 THE COURT: What do you want to offer that for?

6 MS. CRAGER: Just so we know what the manual is. But
7 I can go on.

8 THE COURT: All right. Go to your next one.

9 Q. BY MS. CRAGER: This -- this manual is a user manual for
10 the equipment?

11 A. Yes.

12 Q. And this explains how to use the equipment?

13 A. Yes.

14 Q. All of that is covered during the tandem instructor course?

15 A. That's correct.

16 Q. The manual also explains how to become certified as a
17 tandem instructor on this particular equipment?

18 A. Yes.

19 Q. The tandem instructor candidates need to take an exam that
20 is contained in this manual?

21 A. Actually, the exam is not in the manual itself. The exam
22 is based on information from the manual.

23 Q. I see. So it's based on information that the tandem
24 instructor candidates can find in the manual?

25 A. Yes.

1 Q. It also explains the qualifications that someone needs to
2 be a tandem instructor?

3 A. Correct.

4 Q. Can you please turn to page 12.

5 Does this page discuss applicant qualifications for being a
6 tandem instructor?

7 A. Yes.

8 Q. And there is a list that lets the tandem instructor know
9 what they have to have before they start the course?

10 A. Yes.

11 MS. LYDON: Objection.

12 THE COURT: Overruled. It's just an explanation so
13 far.

14 You're offering this page into evidence?

15 MS. CRAGER: Yes, Your Honor. I offer page 12 into
16 evidence.

17 MS. LYDON: The objection is based on it's unclear
18 what purpose or -- or whether it's for the truth or whether
19 it's for the effect on some listener.

20 THE COURT: Is this a different exhibit -- manual
21 than the one we already have?

22 MS. CRAGER: Yes, Your Honor. I only --

23 THE COURT: The manual itself, is this a different
24 manual?

25 MS. CRAGER: Yes.

1 THE COURT: So this is the manufacturer's manual?

2 MS. CRAGER: Yes.

3 THE COURT: All right.

4 MS. CRAGER: I intend to offer it because it advises
5 about the care and vigilance that the students should have in
6 evaluating the credentials of the tandem examiner.

7 THE COURT: All right. Well, I -- I assume when it
8 says "applicant qualifications," that the objection is we don't
9 know what the application is for. That's --

10 MS. CRAGER: Yes, Your Honor. He just testified, I
11 believe, that this is for the tandem instructor course.

12 THE COURT: All right.

13 MS. LYDON: And -- I can clarify the objection, Your
14 Honor.

15 THE COURT: All right.

16 MS. LYDON: The objection is that there is no
17 foundation that Mr. Stokes provided this manual to any of the
18 tandem instructor candidates.

19 THE COURT: Do you want to lay the foundation?

20 MS. CRAGER: Yes, Your Honor.

21 Q. BY MS. CRAGER: This manual is the manual that explains how
22 to use the equipment?

23 A. Yes, it does.

24 Q. And how to use the equipment is one of the things that is
25 covered in a tandem instructor course?

1 A. From the aspects of -- are we talking instructor or
2 examiner?

3 Q. Instructor.

4 A. Yes.

5 Q. And the tandem instructors need to take an exam in order to
6 be qualified, and they can find the answers to that exam in
7 this material and this manual?

8 A. Yes.

9 Q. And it is expected that tandem instructor candidates review
10 this manual?

11 A. Yes.

12 MS. CRAGER: I move to admit page 12.

13 MS. LYDON: Objection. It remains there's been no
14 showing of foundation that Mr. Stokes taught --

15 THE COURT: Okay. You -- you were Mr. Pooley's
16 instructor, right?

17 THE WITNESS: Yes, sir.

18 THE COURT: Do you know whether he got a copy of this
19 manual?

20 THE WITNESS: This would be something they download
21 off the internet and they have as a backup document, yes, sir.

22 THE COURT: Would you have instructed him on how to
23 find this manual?

24 THE WITNESS: Yes, sir.

25 THE COURT: Did you do that?

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Which pages are you offering?

3 MS. CRAGER: Only page 12, Your Honor.

4 THE COURT: Page 12. Page 12 of Exhibit 2000 is
5 received in evidence.

6 (DEFENDANT'S EXHIBIT 2000, PAGE 12 ADMITTED INTO EVIDENCE.)

7 MS. LYDON: To clarify, Your Honor, is it received
8 for the effect on Pooley?

9 MS. CRAGER: We are offering it for the effect on
10 Mr. Pooley and the tandem instructor candidates, to be clear.

11 MS. LYDON: And Mr. Stokes did not give it to any of
12 the tandem instructor candidates, nor has she shown they ever
13 received it.

14 MS. CRAGER: At this point, it's for Mr. Pooley.

15 THE COURT: Just its effect on Mr. Pooley?

16 MS. CRAGER: Sure.

17 THE COURT: Go ahead.

18 MS. CRAGER: Thank you. I'd like to publish page 12.

19 Q. BY MS. CRAGER: The top here is about the applicant
20 qualifications?

21 A. Yes.

22 Q. And that's for the tandem instructor candidates?

23 A. Yes.

24 Q. I would like to zoom in right here on this note.

25 It says, Each candidate has the responsibility to inspect

1 the credentials of the tandem examiner.

2 Is that what it says?

3 A. Yes.

4 Q. Certification paperwork filed by an examiner who is not a
5 current tandem instructor will be considered to be invalid by
6 the United Parachute Technologies.

7 Is that what it says?

8 A. Yes.

9 Q. And then it says, in all caps, Be sure your examiner is
10 holding a valid current tandem examiner license.

11 Is that what it says?

12 A. Yes.

13 Q. Thank you. Do you know a person named Yuri Garmashov?

14 A. Yes.

15 Q. And did you train him to be a tandem examiner?

16 A. Yes.

17 Q. You trained him in the same course in 2014 as you trained
18 Mr. Pooley?

19 MS. LYDON: Objection. Outside the scope.
20 Relevance.

21 THE COURT: Overruled. You may answer.

22 THE WITNESS: Yes. Rob Pooley was there to be
23 retrained. Yuri was receiving initial training.

24 Q. BY MS. CRAGER: I see. And Yuri's training, you let him
25 know that a tandem examiner must be present during the various

1 stages of a tandem instructor course?

2 A. Correct.

3 Q. You also let him know that any reports of examiners signing
4 off on paperwork when, in fact, they were not present would be
5 grounds for examiner rating revocation?

6 A. In accordance with the guidelines that are specific --
7 specified by the UPT, yes.

8 Q. So you let Yuri Garmashov know that if he signed off and he
9 was not present, his ratings could be revoked?

10 A. Yes.

11 MS. CRAGER: Thank you.

12 THE COURT: Any redirect?

13 MS. LYDON: Just very briefly.

14 REDIRECT EXAMINATION

15 BY MS. LYDON:

16 Q. Mr. Stokes, Ms. Crager showed you the Sigma Tandem system
17 owner's manual. Do you recall that?

18 A. Yes.

19 Q. But we don't know what year it was, do we?

20 A. Normally, you would have a date of placed in service, or
21 words to that effect, on the bottom of the page.

22 Q. And that's not here, is it?

23 A. I don't see that.

24 Q. And we don't have any reason to think that Pooley actually
25 showed this to any of his tandem instructor --

1 MS. CRAGER: Objection. Argumentative.

2 THE COURT: Overruled. But I -- you know, I -- I'm
3 just making sure that I didn't exclude something that might
4 have had the date on it, because I wasn't thinking of that at
5 the time you were offering pages.

6 Is there some other page on this that has the date
7 somewhere?

8 Mr. Stokes, is the date -- did you look at this?

9 THE WITNESS: Your Honor, normally, the date would be
10 at the lowest portion where it says, Section, Sigma Tandem
11 System, Chapter; there would be a date in there. And I don't
12 see one --

13 THE COURT: There isn't one.

14 THE WITNESS: No, sir. And the manuals are updated
15 periodically.

16 THE COURT: But there is no date on this one?

17 THE WITNESS: No, sir.

18 THE COURT: Do you know why?

19 THE WITNESS: I do not.

20 THE COURT: All right.

21 Q. BY MS. LYDON: So it's a defense exhibit, but there is no
22 date on it, right?

23 A. That's correct.

24 Q. And there is no reason -- you don't have a -- any facts
25 suggesting that Pooley actually gave this to any of his tandem

1 instructor candidates, right?

2 A. I don't know that.

3 Q. So -- and with respect to the point that the defense made
4 about the applicants checking their examiner's card, when
5 someone is suspended, they don't actually mail back their card,
6 do they?

7 A. They wouldn't have the ability to show something they don't
8 have.

9 Q. Well, when someone is suspended is the point I'm making.
10 So when Mr. Pooley became an examiner, he received a card,
11 right?

12 A. Yes.

13 Q. Then when he was suspended, he didn't physically return the
14 card to USPA or UPT -- right? -- as far as you know?

15 A. No. There -- there is no requirement to surrender.

16 Q. So if Mr. Pooley were defrauding these students, he had a
17 card that he could have used to do so, right?

18 MS. CRAGER: Objection. Argumentative. Speculation.

19 THE COURT: Overruled. If you know.

20 THE WITNESS: He would have -- he would have a card.
21 It would have a date on it.

22 Q. BY MS. LYDON: So this business about showing them your
23 card wouldn't have made any difference to the students, would
24 it?

25 MS. CRAGER: Objection. Argumentative. Speculation.

1 THE COURT: Sustained.

2 MS. LYDON: I'm done anyway.

3 Thank you, Mr. Stokes.

4 THE COURT: All right. Anything else?

5 MS. CRAGER: Yes, Your Honor.

6 RECROSS-EXAMINATION

7 BY MS. CRAGER:

8 Q. Mr. Stokes, could you turn to Exhibit 2001, which is just
9 the next exhibit there.

10 A. Okay.

11 Q. Can you turn to the very last page of that exhibit, page
12 123.

13 Do you see that page?

14 A. I am at that page.

15 Q. There are some dates there.

16 A. Yes.

17 Q. This is entitled "Revision Log"?

18 A. Yes.

19 Q. The revision log is how UPT keeps track of what was changed
20 in the manual at what time?

21 A. Correct.

22 Q. And there are three revisions listed in this log?

23 A. Yes.

24 Q. They are dated July of 2016 and September of 2016?

25 A. Yes.

1 Q. And can you turn back to page 1 of that Exhibit 2001.

2 A. Okay.

3 Q. And this is the Sigma Tandem Owner's Manual we were talking
4 about before?

5 MS. LYDON: Objection. It's -- it's not --

6 THE COURT: We don't know what this is.

7 MS. LYDON: It's 2001. It's a different exhibit.

8 THE COURT: It is a different exhibit. This one has
9 a date on it.

10 MS. CRAGER: Yes, Your Honor. I'm trying to lay the
11 foundation that the government was objecting to.

12 THE COURT: Let's see if he knows -- see if he has an
13 explanation.

14 Q. BY MS. CRAGER: So this is a manual with dates for
15 revisions in July and September of 2016?

16 A. Yes.

17 Q. Okay. Now, none of the revisions listed here relate to the
18 page 12 that we were talking about before?

19 A. They relate to malfunction procedures and standardized
20 verbiage.

21 Q. So those were the things that were changed in this revision
22 to the manual?

23 A. I would have to say yes.

24 Q. Okay. And now can you turn to page 12 of 2001. I'm sorry.
25 It's actually page 11 in this version.

1 A. Okay. I'm there.

2 MS. CRAGER: Your Honor, I move to admit page 11 of
3 2001.

4 THE COURT: How do we read the date on this? Is
5 that -- is that at the bottom?

6 THE WITNESS: It --

7 MS. LYDON: Objection for various reasons.

8 THE COURT: Well, let -- is there a date on this one
9 that I can find?

10 MS. CRAGER: The dates -- Your Honor --

11 THE COURT: I'm asking him. This is his manual.

12 THE WITNESS: If -- it -- the date should be at the
13 bottom of the page.

14 THE COURT: So what -- on this one, it says MAN-013.

15 THE WITNESS: Revision.

16 THE COURT: Does that tell you the date or not?

17 THE WITNESS: No, it does not.

18 THE COURT: All right. So does this surprise you
19 that neither of these have a date?

20 THE WITNESS: It -- it does, because -- but it says
21 Pooley Defense, and then there is a number here.

22 THE COURT: Right.

23 THE WITNESS: That might have eliminated the date.

24 THE COURT: Right. But other than that, you just --
25 you just have to speculate, I guess.

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. There is no indication on
3 either one of these what the dates are.

4 MS. CRAGER: Yes, Your Honor. I think the dates are
5 noted on the last page on the revision log.

6 THE COURT: Of 2001?

7 MS. CRAGER: Yes.

8 MS. LYDON: We would disagree with that
9 interpretation of the revision log. It reflects that there
10 were certain revisions made on certain dates. It doesn't tell
11 us anything about the date of either of these documents.

12 THE COURT: No, it doesn't. And this is his company.
13 If he can't find the date on it, then I'm not going to
14 speculate.

15 MS. CRAGER: Yes, Your Honor. We'll call another
16 witness about that.

17 THE COURT: Anything else from him?

18 MS. LYDON: No. Thank you, Your Honor.

19 THE COURT: Okay. Mr. Stokes, thank you. You're
20 excused.

21 THE WITNESS: Thank you, sir.

22 MR. SHARMA: Your Honor, the government calls Mark
23 Procos.

24 THE CLERK: Sir, please step forward, all the way to
25 your right, up to the witness stand.

1 Remain standing. Face me, please. And raise your right
2 hand.

3 (The Witness, MARK PROCOS, is sworn.)

4 THE WITNESS: I do.

5 THE CLERK: Thank you. You may be seated.

6 Please state your full name. Spell your last name for the
7 record.

8 THE WITNESS: Mark Procos. P-R-O-C-O-S.

9 DIRECT EXAMINATION

10 BY MR. SHARMA:

11 Q. Good afternoon, Mr. Procos.

12	A. Good afternoon.
----	--------------------

13	Q. Who do you work for?
----	-------------------------

14 | A. United Parachute Technologies.

15 | Q. Okay. And what does United Parachute Technologies do?

16 A. We are a manufacturer of harness and container systems and
17 tandem systems.

18	Q. Tandem --
----	--------------

19 | A. Parachute systems.

20 | Q. Tandem parachute systems.

21 | Any particular tandem parachute systems?

22 A. The Sigma and the Micro Sigma.

23 Q. How big of a market share does United Parachute
24 Technologies control in tandem parachutes?

25 A. We estimate we -- in the US, we have about 90 percent of

1 the market. And worldwide, about 85 percent of the market.

2 Q. Okay. So if a -- if a person is using a tandem parachute
3 in the United States, 90 percent of the time, it's going to be
4 a UPT parachute?

5 A. Yes.

6 Q. And what's your role with UPT, sir?

7 A. I'm currently the senior executive and general manager of
8 United Parachute Technologies.

9 Q. Just briefly, what are some of your duties in that role?

10 A. I have a management team that runs various departments
11 within the company, and I oversee them, as well as the company
12 and around the world.

13 Q. How long have you worked with UPT?

14 A. Since 1998.

15 Q. And have you always been the general -- the general
16 manager?

17 A. I'd like to have been, but no.

18 Q. What are some of the other roles you've had?

19 A. No. I started out and when I joined the company in '98 in
20 the quality department. And I moved through various
21 departments, and up to then, I became sales and marketing
22 director. And in 2003, I was also the tandem program director.

23 Q. You're also a skydiver?

24 A. Yes.

25 Q. Have you been a tandem instructor or a tandem examiner?

1 A. Yes. Even before I joined the United Parachute
2 Technologies.

3 Q. So both of them?

4 A. Yes.

5 Q. Does UPT require anything of skydivers that want to use the
6 UPT tandem parachute?

7 A. Yes. According to the rules of the FAA, they have to
8 undergo an instructor training course with one of our examiners
9 and have to be issued a rating by us or tandem -- somebody
10 approved by the administrator of the FAA.

11 Q. Okay. So what does UPT call that course we just talked
12 about?

13 A. The instructor course. The tandem -- it's called the
14 tandem instructor course.

15 Q. Okay. And what does that -- is there a certification that
16 comes out of that?

17 A. Yes. They would get a -- once they have completed the
18 training program and the probationary terms, they'll be issued
19 a tandem rating card.

20 Q. A tandem rating card?

21 A. A card, yes.

22 Q. What are they called after that -- after they complete that
23 course?

24 A. A tandem instructor.

25 Q. Got it. And would these be the same processes and

1 requirements in place as in 2016?

2 A. Yes.

3 Q. What was the primary concern or goal for UPT in developing
4 this tandem instructor course?

5 A. To ensure that this is -- these tandem systems are a more
6 complex system; so we put this course in place. We were
7 required to do it by the FAA. We put this course in place so
8 we could keep the level of safety where it should be.

9 Q. Okay. Just briefly, who could teach a tandem instructor
10 course?

11 A. A tandem examiner.

12 Q. Got it. And is that just a higher certification than a
13 tandem instructor?

14 A. Yes.

15 Q. Now, do you know an individual named Robert Pooley?

16 A. Yes.

17 Q. How do you know him?

18 A. He was a tandem -- a tandem instructor and a tandem
19 examiner.

20 Q. Got it.

21 Do you know when he got certified with UPT --

22 A. His --

23 Q. -- to be a tandem examiner?

24 A. Yes. In 2010.

25 Q. Okay. Does UPT keep records of tandem instructors and

1 tandem examiners that it has -- it certifies?

2 A. Yes, we do.

3 Q. How does it keep those records?

4 A. There's two ways. We have -- as soon as a person becomes a
5 tandem instructor, which is a prerequisite before any other
6 rating, when we receive the initial paperwork from the
7 training, we open up a file, and we keep all these -- the
8 original paperwork that was submitted to us, and we also put
9 that name into a database.

10 Q. When you say you create a file, is that a hard copy file?

11 A. Physical file. Manila folder file.

12 Q. Okay. And where does that file go?

13 A. That's kept in our tandem records room at United Parachute
14 Technologies.

15 Q. And where physically or geographically is that located?

16 A. In Florida. DeLand, Florida. At our facility in DeLand.

17 Q. And who makes these -- these records -- these files?

18 A. So the -- we normally have somebody that works as an
19 administrator to receive, initially, these things, in charge of
20 the rating fees and so on, and she does that. Currently, her
21 name is Cheryl.

22 Q. Okay. Is it a regular practice of UPT to maintain those
23 records?

24 A. Yes.

25 Q. And are those records kept in the regular course of UPT's

1 business?

2 A. Yes.

3 Q. Okay. Can I turn you to Exhibit 105. So there is going to
4 be binders behind you, and it will be in Binder 6. If you have
5 any trouble, just let me know. I'll come over to help you.

6 A. 6. Yes.

7 Q. So number 105 is the tab.

8 A. All right. Tab 1 of 5? 105. Got it.

9 Q. Do you recognize that document?

10 A. Yes.

11 Q. And what is it, sir?

12 A. So when a person -- a candidate does the initial training
13 to become a tandem instructor, this is a logbook in the
14 record -- the initial records we keep, which is part of the
15 whole package that gets submitted to us.

16 Q. Is that the specific logbook for a person?

17 A. Yes, it is.

18 Q. Whose logbook is that?

19 A. That's Rob Pooley's.

20 Q. And how do you know that?

21 A. His name is on it, his address, his phone number, date of
22 birth, all of the above.

23 MR. SHARMA: Government moves to enter into evidence
24 Exhibit 105.

25 THE COURT: Any objection?

1 MS. CRAGER: I'm sorry, Your Honor. I just got a
2 copy of it just now; so if you'll give me a moment.

3 MS. LYDON: We provided it electronically, but it
4 didn't make it into the latest physical binder.

5 MS. CRAGER: No objection, Your Honor.

6 THE COURT: Exhibit 105 is received in evidence.

7 (GOVERNMENT'S EXHIBIT 105 ADMITTED INTO EVIDENCE.)

8 MR. SHARMA: Okay. Page number -- thank you.

9 Q. BY MR. SHARMA: So just looking at the first page of this
10 document, sir, is that -- up there, is that Rob Pooley's name?

11 A. Yes.

12 Q. Okay. And so this is what you said was a logbook?

13 A. Yes. It's a -- a training logbook.

14 Q. Can we turn to the next page, please.

15 So could you explain to us what's happening on this -- on
16 this page of the logbook?

17 A. Okay. I'll start on the top left-hand corner there.

18 That's Rob. And -- Rob Pooley's name. The person that gave
19 him his initial tandem instruction, James, which is signed off.

20 So in other words, he has -- this is the -- actually, the
21 second page. So this is after he completed his initial five
22 training jumps.

23 Q. Okay.

24 A. And he is signed off.

25 Then you'll see at the bottom of the page these are jumps

1 that he would have performed with an experienced passenger,
2 somebody that is an experienced skydiver -- they call
3 consolidation jumps.

4 And on the right-hand side, Section B, is a continuation of
5 jumps. Those jumps, he can perform with somebody that has not
6 done a tandem before. In other words, that he's taking as a
7 student that has not jumped before.

8 Q. Who is signing off on these jumps?

9 A. On the jumps itself and the -- the -- those would have been
10 the person -- the jumper he took on those. And jumps on the 6
11 through number 10, that's the jumper he took, the experienced
12 jumper; they would have signed off on it.

13 Q. Got it. So these are someone else's signatures?

14 A. Yes.

15 Q. Okay.

16 A. And the signatures on the right-hand side would have been a
17 witnessing jump.

18 Q. Got you.

19 Flip over to the next page, please, 105-003.

20 And are these just more of the jumps that he had to do in
21 his logbook?

22 A. Yes. So these are more consolidation jumps, performed with
23 inexperienced people, not experienced jumpers.

24 Q. And just to -- just to circle back, these are all the jumps
25 that he would have done to become a tandem instructor?

1 A. Yeah. Those are the ones on the left. If you look on the
2 right, those are his initial five training jumps that he would
3 have performed with the tandem examiner.

4 Q. Got it.

5 A. And would have been signed off by the examiner.

6 On the previous page, where signed off, there was the
7 signing of these initial five jumps.

8 Q. Flip over to the next page.

9 And is that the final endorsement up there in the corner?

10 A. Yes. So after he has completed all his consolidation
11 jumps, his probationary jumps, he gets signed off by a tandem
12 examiner.

13 Q. Okay.

14 A. Or a tandem -- and this gets submitted to us. We receive
15 that; we should have already had all the other paperwork, and
16 we'll issue a rating.

17 Q. Got it.

18 Now flip over to page number 6 of the document.

19 A. Yes.

20 Q. What's this document, sir?

21 A. This is our certification form. And it has some of that
22 information that you saw in the logbook. But this is the stuff
23 that gets immediately submitted to us. So it's Rob's name;
24 it's his initial five training jumps, signed off by his tandem
25 examiner.

1 Q. Okay. And that stamp up there, the received stamp, is
2 that -- is that your -- is that UPT's stamp?

3 A. That's the stamp of the date we received it.

4 Q. Okay. Let me -- let me turn you to Exhibit 104. So just
5 the prior exhibit.

6 A. Okay.

7 Q. Do you recognize this document?

8 A. Yes.

9 Q. What is it?

10 A. That's a recertification form or renewal form.

11 Q. Okay. And who is it for?

12 A. It's for Rob Pooley.

13 MR. SHARMA: Government moves to enter Exhibit 104
14 into evidence.

15 THE COURT: Any objection?

16 MS. CRAGER: One moment, Your Honor.

17 No objection, Your Honor.

18 THE COURT: Exhibit 104 is received in evidence.

19 (GOVERNMENT'S EXHIBIT 104 ADMITTED INTO EVIDENCE.)

20 Q. BY MR. SHARMA: And so just looking at this document,
21 you've got Rob Pooley's name on top; is that right?

22 A. Yes.

23 Q. And it's signed off by Mr. Pooley?

24 A. Yes.

25 Q. And do you recognize that signature?

1 A. Yes.

2 Q. You've seen the signature before?

3 A. Yes.

4 Q. And the date is 2/20/15?

5 A. The date he signed it, yes.

6 Q. Yeah. Okay.

7 And then it's signed by an endorsement -- there is an
8 endorsing signature below there?

9 A. Yes. So his examiner -- well, there is not an examiner.
10 He was -- this was signed off by another examiner at the time.

11 Q. Right. All right.

12 So did UPT ever -- did UPT initiate disciplinary action
13 against Mr. Pooley in 2015?

14 A. Yes.

15 Q. And do you remember approximately when that was?

16 A. In July 2015.

17 Q. Okay. Let me turn you to Exhibit 910. So that's a
18 different binder. It will be Binder 8 behind you. On the
19 second -- yeah.

20 A. Do I keep -- do you want me to keep this one here?

21 Q. No. You can take that off.

22 A. Where did you want me to go to?

23 Q. Exhibit 910.

24 A. 910. Okay.

25 Q. Do you recognize this document, sir?

1 A. Yes.

2 Q. And what is it?

3 A. It's an e-mail from Tom Noonan, who was the tandem program
4 director at the time, to Rob Pooley.

5 Q. Okay. And how do you know that?

6 A. I see it's Tom's e-mail address, the date and UPT e-mail
7 address. And this was also part of his file.

8 Q. Okay. And is there a second page to this document?

9 A. Yes.

10 Q. And what is that document?

11 A. That's the action we took against Rob Pooley at the time,
12 the suspension of his rating.

13 Q. Okay.

14 MR. SHARMA: Your Honor, government moves to enter
15 Exhibit 910 into evidence.

16 MS. CRAGER: No objection.

17 THE COURT: Exhibit 910 is received in evidence.

18 (GOVERNMENT'S EXHIBIT 910 ADMITTED INTO EVIDENCE.)

19 Q. BY MR. SHARMA: This is the first page we were talking
20 about?

21 A. Yeah.

22 Q. Let me just start from the top here.

23 So this is an e-mail, you said, from Tom Noonan who worked
24 for UPT?

25 A. Yes.

1 Q. What was his role with UPT?

2 A. The tandem program director.

3 Q. Briefly, what does that mean? What do they do?

4 A. So his job was to oversee the whole tandem program, manage
5 that for us -- for our company, as well as issue -- he would do
6 the training courses for -- to train tandem examiners.

7 Q. Okay. And the date on this e-mail is August 18, 2015?

8 A. Correct.

9 Q. And it's sent to Rob Pooley?

10 A. Yes.

11 Q. And the subject line says, Letter of Suspension Re: USPA
12 action?

13 A. Yes.

14 Q. And there is an attachment to this e-mail, right?

15 A. Yes.

16 Q. And then -- zoom out, please.

17 And then the body of the e-mail says, Based on the
18 conversation last night, attached please find a letter of
19 reciprocity with the USPA.

20 A. Yes.

21 Q. Okay. And then let's switch over to the next page.

22 So what's this letter?

23 A. This is -- that's -- that was an e-mail. This is the
24 official letter to him, informing him that we are suspending
25 his rating as a tandem examiner.

1 Q. Got it. Is this the attachment to that e-mail?

2 A. Yes.

3 Q. Okay. And, again, the -- up top, we have the date, and
4 it's addressed to Rob Pooley?

5 A. Yes.

6 Q. And the subject line says, Suspension of UPT Tandem
7 Examiner Rating?

8 A. Yes.

9 Q. Okay. And then in the body of the e-mail, the first
10 paragraph, it says, The tandem examiner rating has been
11 suspended effective July 26, 2015 --

12 A. Yes.

13 Q. -- for a period of one year.

14 So that's the USPA tandem examiner rating, right?

15 A. Yes.

16 Q. Okay. And then if you move on in the same paragraph, it
17 says, We're also spending your UPT tandem examiner rating for
18 the same time period. Correct?

19 A. Yes.

20 Q. And it has an effective end date of the suspension of July
21 25, 2016 --

22 A. Yes.

23 Q. -- is that right?

24 Unless USPA rescinds or modifies its decision or suspension
25 time frames?

1 A. Yes.

2 Q. Did that mean that after that date, Rob Pooley would have
3 automatically been reinstated as a UPT examiner?

4 A. No.

5 Q. What would he have had to do to get reinstated?

6 A. He would have to have submitted a recertification form and,
7 if necessary at the time, retrain -- retraining.

8 Q. Sorry. What was the last part?

9 A. Or retraining.

10 Q. Okay.

11 A. But he would have had to submit an application to get his
12 tandem rating reinstated.

13 Q. Okay. What did this suspension mean for Mr. Pooley?

14 In other words, what was he prohibited from doing during
15 that period of time?

16 A. Training tandem instructors.

17 Q. Okay. Now, had UPT received any paperwork containing
18 Mr. Pooley's signature during that time period --

19 A. No.

20 Q. -- would UPT have issued any tandem ratings?

21 A. No.

22 Q. And had UPT received any paperwork containing another
23 examiner's signature, knowing that that examiner was not
24 physically present at the drop zone --

25 A. No.

1 Q. -- would UPT have issued --

2 A. No, it would not.

3 Q. Let me finish my question.

4 A. Sorry.

5 Q. Would UPT have issued any tandem examiner -- tandem
6 instructor ratings?

7 A. No.

8 Q. Did Mr. Pooley ever have his UPT ratings reinstated?

9 A. No, he did not.

10 Q. Now, we talked a little bit earlier about how UPT receives
11 tandem instructor cards, I think you said, right? Proficiency
12 cards?

13 A. Yes.

14 Q. When it receives those cards, it makes -- does it put those
15 in those files that we talked about in the filing room?

16 A. Yes. We received that initial training card, the one we
17 spoke about earlier.

18 Q. If you wanted to find out about a particular instructor or
19 when -- when they received their tandem instructor rating,
20 would you be able to go into that file and open it up and look
21 and find out that way?

22 A. Yes.

23 Q. Okay. Did you receive a request from investigators to
24 determine if UPT had received tandem instructor cards for
25 certain individuals?

1 A. Yes, we had.

2 Q. Okay. And when you got that request, is that how you
3 figured it out, by going into that filing room and opening up
4 those files?

5 A. Yes. There are two ways. We can look in the filing room
6 and look on the database as well.

7 Q. Tell me about the database real quick.

8 A. So when we started a folder -- when we issue a rating, we
9 have a database -- an all-access database, and we keep all
10 the -- the applicant's information on there as well and the
11 date we issue the rating.

12 Q. And we saw this earlier, but the -- the forms that you get,
13 they're signed off by the examiners, right?

14 A. Correct.

15 Q. So for a candidate, you'd be able to tell who their
16 examiner was?

17 A. Yes.

18 Q. Okay. And for the list of people that the investigators
19 contacted you about, did you look to see if there was, A, any
20 paperwork and, B, if there was paperwork who their examiner
21 was?

22 A. Yes.

23 Q. Okay. So I'm going to go through some names. And they may
24 not make a lot of sense right now, but I just want to confirm,
25 for any of these people, whether you found paperwork that

1 showed either Rob Pooley or Yuri Garmashov as being their
2 examiner.

3 A. Okay.

4 Q. Okay. Gonzalez Fabricio Palomino Benitez?

5 A. No.

6 Q. Bradley North?

7 A. No.

8 Q. Fabian Munoz?

9 A. No.

10 Q. YongHyeon Kwon?

11 A. No.

12 Q. Carlos Obaid?

13 A. No.

14 Q. Carlos Martinez?

15 A. No.

16 Q. Danny Overeem?

17 A. No.

18 Q. Sang Yeul Jeong?

19 A. No.

20 Q. Joaquin Gomez Passi?

21 A. No.

22 Q. Alejandro Guerrero?

23 A. No.

24 Q. Jens Peter Andersen?

25 A. No.

1 Q. Lachlan Mackay?

2 A. No.

3 Q. So just to summarize, for all those people, UPT did not
4 find any paperwork that showed that they had taken a course
5 with either Rob Pooley or Yuri Garmashov, right?

6 A. Correct.

7 MR. SHARMA: No further questions.

8 THE COURT: Cross-examination?

9 MS. CRAGER: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. CRAGER:

12 Q. Good afternoon, Mr. Procos.

13 A. Good afternoon.

14 Q. On the topic of processing paperwork, when UPT processes a
15 tandem instructor rating, UPT already needs the USPA paperwork
16 to have gone through?

17 A. No.

18 Q. Typically, do people send their USPA paperwork in first and
19 then send to UPT?

20 A. No.

21 Q. Is that one way that it can be done?

22 A. I don't know if somebody can or cannot do that, but that's
23 the incorrect way to do it.

24 Q. So there is no way in which USPA membership or licenses or
25 ratings have any effect on what happens with UPT's process?

1 A. No. It does -- it -- the USPA credentials are used. So in
2 other words, before a person can do a tandem instructor course,
3 he needs to have an expert license from USPA, which is a D
4 license. And -- or from where -- we do foreign people too.
5 They would need the same thing from there -- wherever they came
6 from. They would also need -- at the time, would have needed
7 some kind of instructor rating, coach rating, AFF instructor,
8 something before they could do a tandem instructor course.

9 So there is, in effect, but there is not a requirement to
10 involve USPA in this process.

11 Q. Sure. But UPT needs to in some way verify that the person
12 actually has the other ratings from USPA -- or the requirements
13 -- I'm sorry -- that you just mentioned?

14 A. We can do that now. We have access to USPA's database of
15 instructors. At the time, it was the examiner's responsibility
16 to verify this information, and we would get physical -- in
17 those days, we used to have a physical copy of the instructor
18 rating, USPA rating. It was a rating card. So we -- they
19 would submit that to us as well.

20 Q. So they needed to submit the USPA rating card to UPT?

21 A. Yes.

22 Q. I see. So typically, that card would need to happen first
23 before they could submit it to UPT?

24 A. Yes. But not the -- it's not a tandem card. That's just
25 an instructor rating card or coach rating card or USPA

1 membership, yes.

2 Q. So that part would have to happen before they sent it to
3 UPT?

4 A. I don't quite understand what you're saying.

5 Q. I thought we were saying the same thing, that UPT needs to
6 receive the card showing the USPA information.

7 A. Yes.

8 Q. Okay. That was my question. Thank you.

9 A. Okay.

10 Q. I think this is been clear, but UPT is a private company?

11 A. Yes.

12 Q. It's called Uninsured United Parachute Technologies, LLC?

13 A. Yes.

14 Q. So it's a limited liability corporation?

15 A. It is now. We've changed from time to time.

16 Q. I see. But it is a for-profit company?

17 A. Yes.

18 Q. That manufactures equipment?

19 A. Yes.

20 Q. So it's not a government agency?

21 A. No.

22 Q. And it's not part of the government at all?

23 A. No.

24 Q. I want to talk briefly about the user manual for the Sigma
25 Tandem equipment.

1 A. Okay.

2 Q. And if I may approach, I'll pull a binder out for you.

3 A. Okay. I'll put this one away.

4 Q. You received a subpoena, correct?

5 A. UPT did, yes.

6 Q. And you received a subpoena from me, actually?

7 A. Sorry. From who?

8 Q. From me.

9 A. Yes. Okay.

10 Q. And that subpoena requested the UPT Sigma Tandem Owner's
11 Manual effective in the summer of 2016?

12 A. Yes.

13 Q. There was a manual that was produced?

14 A. Yes.

15 Q. And you noted that to the best of your knowledge, that is
16 the manual that was in use at the time?

17 A. Correct.

18 Q. And can you look at that exhibit that's right in front of
19 you --

20 A. Yes.

21 Q. -- marked Exhibit 2000.

22 Is that the same exhibit -- I'm sorry -- the same manual?

23 A. Yes. I assume that's the same one I sent to you.

24 MR. SHARMA: I'm going to object as this being
25 outside the scope.

1 THE COURT: Something is getting straightened out.
2 And I hope nobody was criticizing Ms. Crager for the fact that
3 this didn't have a date on it, because she asked for the manual
4 that was in effect in 2016, apparently, and this is what he
5 gave her.

6 MS. CRAGER: Yes, Your Honor.

7 THE COURT: Ms. Crager wasn't responsible for the
8 fact that that earlier one wasn't dated.

9 MS. CRAGER: Thank you, Your Honor. That's all I
10 have.

11 THE COURT: So why doesn't this have a date on it?

12 THE WITNESS: So this was -- I didn't have --

13 THE COURT: We just had a witness here who worked for
14 your company for a long time, and he said the date is always on
15 it.

16 THE WITNESS: Yeah. So this -- this manual was at
17 our lawyer's office. All our manuals are reviewed by our
18 lawyer. And we sent it to him before we published it. I
19 didn't have a physical copy of that because they're normally
20 electronic copies. So I didn't have a physical copy, but he
21 had the copy that we sent to them.

22 THE COURT: So the electronic copies don't have
23 dates?

24 THE WITNESS: Well, they do once we publish them.

25 THE COURT: So --

1 THE WITNESS: But -- we superseded that now. So our
2 current manual has a current date on it.

3 THE COURT: All right. So this one that you provided
4 is the one you're telling us was in effect in 2016?

5 THE WITNESS: Yes.

6 THE COURT: All right.

7 MS. CRAGER: That's all, Your Honor.

8 THE COURT: Did you have any questions?

9 REDIRECT EXAMINATION

10 BY MR. SHARMA:

11 Q. I think you said that this wasn't -- this wasn't the
12 published version of the manual? Is that right? Did I hear
13 that?

14 A. I -- I -- so when we review a manual, before we release it,
15 we always send it to our legal counsel just so he can see
16 whatever changes we made.

17 Q. Okay.

18 A. So when I asked him -- I said, I don't have a copy. He had
19 this on file.

20 Q. Okay. All right. So we don't know if this is the -- the
21 actual physical document that a tandem instructor or a tandem
22 examiner would have received?

23 A. I can't say 100 percent, yes.

24 Q. And specifically as to Mr. Pooley, you don't have any
25 knowledge as to what documents he got or what documents he gave

1 on to his students, do you?

2 A. I have no idea.

3 MR. SHARMA: Okay. Thank you.

4 THE COURT: All right.

5 MS. CRAGER: Just briefly, Your Honor.

6 THE COURT: Yes.

7 RE CROSS-EXAMINATION

8 BY MS. CRAGER:

9 Q. The owner's manual, Sigma Tandem rig, that contains
10 information about how to use the rig?

11 A. It has a broad outline on how to use it, yes.

12 Q. And that's very important information for a tandem
13 instructor to know?

14 A. It's -- it's -- initial tandem instructor, it gives him the
15 background on how to operate the system.

16 Q. And there is an exam that's in the manual as an addendum?

17 MR. SHARMA: Objection. This is, again, outside the
18 scope.

19 MS. CRAGER: Your Honor, the government was
20 suggesting that this is not a manual that ever goes to a tandem
21 instructor candidate; so I'm trying to lay a foundation.

22 MR. SHARMA: That's --

23 THE COURT: Go ahead.

24 Q. BY MS. CRAGER: Is there an exam that is an addendum to
25 this manual that a tandem instructor must take to pass the

1 tandem instructor course?

2 A. And that could be the exam, but the way it works -- this is
3 just the background information. The examiner will have the
4 most current exam that he's used.

5 Q. Sure.

6 A. And he will have it, which is not in this manual.

7 Q. I see. But the answers to the exam can be found in the
8 manual?

9 A. Yes. If you read through the manual, most of the
10 answers -- some of the answers can be found. Some of them,
11 they have to be -- you're going to have to find out during
12 training.

13 MS. CRAGER: Thank you.

14 THE COURT: All right. Mr. Procos, thank you.
15 You're excused.

16 THE WITNESS: That's it? Thank you.

17 THE COURT: You may call your next witness.

18 MR. SHARMA: Yes, Your Honor. Government calls Ron
19 Bell.

20 THE CLERK: Sir, please step forward. All the way to
21 your right. All the way up to the witness stand.

22 Please remain standing. Face me. And raise your right
23 hand.

24 (The Witness, RONALD BELL, is sworn.)

25 THE WITNESS: I do.

1 THE CLERK: Thank you. You may be seated.

2 Please state your full name. Spell your last name for the
3 record.

4 THE WITNESS: Ronald Bell, B-E-L-L.

5 DIRECT EXAMINATION

6 BY MR. SHARMA:

7 Q. Good afternoon, Mr. Bell.

8 Would you mind moving the microphone just a little bit
9 closer to your mouth? Thank you.

10 Who do you work for, sir?

11 A. United States Parachute Association.

12 Q. Okay. And what is your role with the US -- can I call it
13 the USPA?

14 A. Yep.

15 Q. What's your role with them?

16 A. I'm the director of safety and training.

17 Q. Okay. And how long have you held that job?

18 A. Little over five years.

19 Q. What are some of your roles -- duties in that role?

20 A. I work with the board to update ratings and licenses
21 programs. I analyze incidents to update those programs. Stuff
22 like that.

23 Q. Okay. Where is the USPA based geographically?

24 A. Fredericksburg, Virginia.

25 Q. Is that where you work as well?

1 A. Correct.

2 Q. Now, are you familiar with the USPA's tandem instructor
3 ratings course?

4 A. I am.

5 Q. Okay. After a student completes a tandem instructor
6 ratings course, does the USPA require that student to fill out
7 any forms or paperwork?

8 A. There is paperwork filled out during the course. It should
9 be completed at the end of the course. And then it's sent in
10 to USPA to get processed.

11 Q. Okay. And what do you call that paperwork? Is there a
12 name for it?

13 A. Tandem proficiency card, specifically for the tandem
14 course.

15 Q. And you said that gets sent in to the USPA?

16 A. Correct.

17 Q. And is that -- is that how the USPA knows that someone has
18 taken one of its courses?

19 A. Correct.

20 Q. And --

21 A. We issue the ratings. So that would be a tandem rating so
22 that they could exercise and do tandems. In order for them to
23 have that rating, it needs to be processed by us. So we would
24 receive that paperwork, process it, and then issue that rating
25 so that they can exercise the privileges of that rating.

1 Q. Okay. So when you get these tandem proficiency cards for
2 the students, what do you do with those documents?

3 A. After we process them, we file them in what I call our
4 dungeon. It's a file room for USPA.

5 Q. Is that located in Virginia as well?

6 A. It's in the same building.

7 Q. Okay. Is it actually, like, in the basement, like a
8 dungeon?

9 A. No. It's a room in the center of the building. It's got
10 no windows. It's super dark. And it's nothing but filing
11 cabinets.

12 Q. How are the documents organized in that room?

13 A. So we have processors that process the paperwork. The
14 paperwork is also tied to our accounting department. So when
15 they process the paperwork, it's tied to a batch. So every
16 day, they open up a batch, process credit card payments. That
17 batch is filed at the end of the day. So everybody is filed --
18 each processor files a batch for that day. They close it at
19 the end of the day, and then we file it. It's a chronological
20 order of how they process it by processor.

21 Q. And that's sort of based on the date that it receives the
22 documents?

23 A. The date that it's processed.

24 Q. The date it's processed. Okay.

25 Are those documents kept in the regular course of USPA's

1 business activities?

2 A. Absolutely.

3 Q. Is keeping those documents a regular practice of USPA's
4 business activities?

5 A. Yes.

6 Q. Does the USPA also keep electronic records regarding tandem
7 instructor candidates?

8 A. We do.

9 Q. What sort of electronic records?

10 A. We've pretty much moved over everything to digital now.

11 Q. Okay.

12 A. But yeah. So we keep the same proficiency cards, but now
13 they're digitally attached to their files.

14 Q. Got it.

15 When you -- when you receive -- when USPA receives tandem
16 proficiency -- tandem proficiency cards from students, does it
17 also print out the e-mail that it comes with if it comes by
18 e-mail?

19 A. That was standard practice when we were doing things on
20 paper so that we knew when we received it. Because, remember,
21 we file it by the date it's processed, but we also wanted a
22 record of when it was received.

23 Q. Got it. And does -- that hard copy printout of that
24 e-mail, does that go in those files in the dungeon?

25 A. It gets attached with the proficiency card. That way, we

1 know when we received it, and by batch number, we know when it
2 was processed.

3 Q. I'll try to stop referring to it as the dungeon.

4 Now, did you receive a request from investigators to
5 determine if the USPA had record of receiving proficiency
6 cards -- tandem proficiency cards for certain individuals?

7 A. I did.

8 Q. How did you go about answering that question?

9 A. We would have to go to the dungeon, and we'd also have to
10 search our digital records to find if we had that name on file
11 anywhere.

12 Q. Okay. And for the individuals that they asked you about,
13 if you did find any tandem proficiency card documents, would
14 you have been able to tell by looking at that if either Rob
15 Pooley or Yuri Garmashov was the examiner?

16 A. If I found the tandem proficiency card, yes.

17 Q. And how -- where would -- would that name be on the
18 document?

19 A. Because they have to sign on the document in several
20 locations; so we can tell by the signature. And they also
21 include a membership number, because sometimes signatures
22 aren't quite readable; so the membership number ties it to who
23 the individual is.

24 Q. Okay. So I'm going to list some names for you, and just
25 tell me if you found any tandem instructor proficiency cards

1 that had either Rob Pooley or Yuri Garmashov listed as the
2 examiner.

3 A. Okay.

4 Q. Okay. Gonzalez Fabricio Palomino Benitez?

5 A. No.

6 Q. Bradley North?

7 A. No.

8 Q. Fabian Munoz?

9 A. No.

10 Q. Carlos Obaid?

11 A. No.

12 Q. Carlos Martinez?

13 A. No.

14 Q. Danny Overeem?

15 A. No.

16 Q. Sang Yeul Jeong?

17 A. No.

18 Q. Joaquin Gomez Passi?

19 A. No.

20 Q. Alejandro Guerrero?

21 A. No.

22 Q. Jens Peter Andersen?

23 A. No.

24 Q. So, to summarize, you looked through the dungeon for the
25 records for these folks? You looked -- is that a yes?

1 A. Huh?

2 Q. Was that a yes to my question?

3 A. Say the question again.

4 Q. Sure. So all those folks that I just listed, did you go
5 look in the dungeon for those people's paperwork?

6 A. Yes.

7 Q. Okay. Did you look electronically to find any records of
8 theirs?

9 A. Yep. Several times, as a matter of fact.

10 Q. And you didn't find anything for them?

11 A. I found nothing.

12 Q. Now, for some of those folks, did you find records that
13 they had taken tandem instructor courses with different
14 examiners?

15 A. That would be correct.

16 Q. And where did you find those records?

17 A. The same time that we were looking for them. But you guys
18 had specifically asked if they -- if they were that examiner.

19 Q. Got it. Did you also look through USPA records for a
20 Lachlan Mackay?

21 A. I did.

22 Q. And what did you find?

23 A. We found the tandem proficiency card attached to an e-mail
24 of when we received that.

25 Q. And where did you find that?

1 A. When did I find that?

2 Q. Where.

3 A. Oh. In the dungeon.

4 Q. That's where you keep all your records?

5 A. That's where we keep all the paper files, correct.

6 Q. Right behind you, there are some binders -- let me come
7 help you, actually.

8 A. Which one?

9 Q. Do you recognize that document?

10 A. I do.

11 Q. What is it?

12 A. This is the proficiency card and the e-mail of when we
13 received the proficiency card of Mackay.

14 Q. For Lachlan Mackay?

15 A. Yes.

16 Q. That's the document you found when you went looking for
17 him?

18 A. Correct.

19 MR. SHARMA: Government moves to enter Exhibit 4 into
20 evidence.

21 THE COURT: Any objection?

22 MS. CRAGER: Just one moment, Your Honor.

23 THE COURT: What's this one's name?

24 MR. SHARMA: Sorry, Your Honor?

25 THE COURT: What's the name?

1 MR. SHARMA: The individual? Lachlan Mackay.

2 THE CLERK: Mackay.

3 MR. SHARMA: Yeah. That's L-A-C-H-L-A-N.

4 THE COURT: Oh. McClane?

5 MR. SHARMA: No. Sorry. It's Lachlan.

6 L-A-C-H-L-A-N, Mackay, M-A-C-K-A-Y.

7 THE COURT: Oh, Mackay. All right.

8 MS. CRAGER: No objection, Your Honor.

9 THE COURT: Exhibit 4 is received in evidence.

10 (GOVERNMENT'S EXHIBIT 4 ADMITTED INTO EVIDENCE.)

11 MR. SHARMA: Can we just publish that, please.

12 Q. BY MR. SHARMA: Let me just walk you through this document
13 here. We're on the first page of the document.

14 So this -- this e-mail is sent by Rob Pooley?

15 A. Correct.

16 Q. On August 1, 2016?

17 A. Correct.

18 Q. And it's sent to Susan Sullivan?

19 A. Yes, sir.

20 Q. Who is Susan Sullivan?

21 A. Susan Sullivan was our rating processor at the time.
22 Rating coordinator.

23 Q. And where was she based?

24 A. She worked in the same building.

25 Q. In Virginia?

1 A. Correct.

2 Q. Okay. What's the subject of the e-mail?

3 A. Tandem rating for Lachlan Mackay. And then his membership
4 number.

5 Q. And is there an attachment to it?

6 A. Yeah. It was the proficiency card.

7 Q. Got it.

8 Can we zoom out, please.

9 And then the body of the e-mail, it says, Attached is a
10 tandem instructor rating course proficiency card for Lachlan
11 Mackay. And it says, Thanks, Yuri.

12 A. Yes.

13 Q. Okay. And can we move over to the next page, please.

14 Is this the tandem instructor proficiency card we were
15 talking about?

16 A. Correct.

17 Q. Okay. And so up here, looks like it's some biographical
18 information.

19 A. Yeah. That's all the personal information of the
20 candidate.

21 Q. Okay. So we've got the name -- right? -- Lachlan Mackay?

22 A. Yep.

23 Q. There is a mailing address.

24 Do you recognize that address?

25 A. I do.

1 Q. What's the -- how do you recognize it?

2 A. It's the address of the drop zone, probably where he did
3 the course at.

4 Q. Okay. In California?

5 A. Yep.

6 Q. And then it's got -- it's got some other licensing
7 information, date of birth, and then a credit card information?

8 A. Correct.

9 Q. Okay. And is that needed to be able to process his
10 ratings?

11 A. Correct.

12 Q. Can you zoom out.

13 And then down here, it's got some signatures. What do
14 these signatures signify?

15 A. So each one of those line items is something that he has
16 to -- the candidate has to perform. So the signature is just
17 saying that that candidate met that criteria.

18 Q. Okay. And let me flip over to the next page, please.

19 You see some more signatures. Is that also the same thing?

20 A. Yeah. Each line item is -- is something that the candidate
21 had to complete in order to complete the rating course. So
22 each one requires a signature.

23 Q. Okay. And let me zoom in on this section right here.

24 So there is a -- in the corner over there, it says, Rating
25 recommendation, right?

1 A. Yeah. That's the final signoff by the examiner that ran
2 the course.

3 Q. By the examiner.

4 And the examiner for this course was -- who does it say it
5 was?

6 A. Yuri Garmashov.

7 Q. And is that Yuri Garmashov's signature?

8 A. It is.

9 Q. And is the date July 17, '16 -- 2016?

10 A. Yes.

11 Q. Okay. And in Acampo -- at the skydive school in Acampo?

12 A. Yep.

13 Q. Zoom out. Does that signature look similar to all the
14 other signatures or almost all the other signatures on the same
15 card?

16 A. It does.

17 Q. Is there anyone else's signature on this card?

18 A. For Item Number 19, that looks like Rob Pooley's signature.

19 Q. And how do you know that?

20 A. I've seen Rob Pooley's signature before.

21 Q. You have. Okay.

22 And you recognize it as being his signature?

23 A. Yep.

24 Q. Okay. Turn your attention to Exhibit 6 in the same binder.

25 Can you just take a look at it and tell me if it's basically

1 identical to the first exhibit we just looked at?

2 A. Yep.

3 Q. Is that still the same paperwork you found for Mr. Mackay
4 in the dungeon?

5 A. Yep.

6 Q. All right.

7 MR. SHARMA: Government moves to enter Exhibit 6 into
8 evidence.

9 THE COURT: How is that different from 4?

10 MR. SHARMA: It's just categorized differently based
11 on the counts. So it's the same --

12 THE COURT: I just was thinking you're going to have
13 one for each of those names that you mentioned, right?

14 MR. SHARMA: No, we're not, because they didn't have
15 any paperwork for them.

16 THE COURT: Any objection to Exhibit 6?

17 MS. CRAGER: It's the same exhibit; so we would
18 object as cumulative.

19 THE COURT: I don't know what it is. It's getting
20 late in the day. I asked him if it was the same, and I don't
21 know the answer.

22 MS. CRAGER: I believe the answer was it was
23 literally the same. They just have a different count for the
24 exact same paperwork; so they want to enter it twice.

25 THE COURT: Is that the reason?

1 MR. SHARMA: I think it will be easier for the jury
2 to be able to go --

3 THE COURT: No. It's not easier for the jury. It's
4 the same as Exhibit 4; so I'm not going to duplicate it.

5 MR. SHARMA: Okay.

6 Q. BY MR. SHARMA: Did you also look through USPA records for
7 a YongHyeon Kwon?

8 A. I did.

9 Q. Did you find any paperwork for him?

10 A. I did find a proficiency card for him.

11 Q. Now where did you find that, or how did you receive that?

12 A. So that was not received in a normal process of a rating.
13 That was received for another process that was going on in
14 2018.

15 Q. Okay. So is it fair to say that those records weren't in
16 the dungeon?

17 A. Yes.

18 Q. Okay. So it was outside the regular process of how USPA
19 receives those documents?

20 A. Well, we received it by e-mail, but it had to do with a
21 completely different -- it was an appeal for -- for a member.

22 Q. Okay.

23 MR. SHARMA: No further questions.

24 THE COURT: Cross-examination?

25 MS. CRAGER: Yes, Your Honor.

1 CROSS-EXAMINATION

2 BY MS. CRAGER:

3 Q. Good afternoon, Mr. Bell.

4 I'd like to pull up Government's Exhibit 4.

5 THE COURT: That microphone will be fixed by
6 tomorrow.

7 MS. CRAGER: Thank you.

8 THE COURT: Right, Karen?

9 THE CLERK: I hope today, if they can come up.

10 MS. CRAGER: I'm going to approach just for a minute
11 to get a binder for the witness.

12 Q. BY MS. CRAGER: Mr. Bell, you testified about this e-mail
13 that came from Robert Pooley; is that right?

14 A. I did.

15 Q. And the e-mail is to Susan Sullivan, correct?

16 A. Correct.

17 Q. And she works -- worked at the Parachute Association?

18 A. She did.

19 Q. And it's also to a morgan@verticalfilms.com.au?

20 A. Correct.

21 Q. Okay. Can we pull up the second page of that exhibit.

22 And you see here, the e-mail address reported for the
23 applicant, Lachlan Mackay, is reported as
24 morgan@verticalfilms.com.au; is that correct?

25 A. Correct.

1 Q. So let's go back to page 1.

2 So you would agree with me that this e-mail was sent both
3 to the USPA and to the applicant?

4 A. Correct.

5 Q. This e-mail is signed "Yuri"?

6 A. It is.

7 Q. Do you, sitting here today, know whether the applicant,
8 Morgan, knew whether Yuri sent this e-mail or not?

9 MR. SHARMA: Objection. Calls for speculation.

10 THE COURT: Do you know or not? Yes or no?

11 THE WITNESS: Can you say the question again?

12 Q. BY MS. CRAGER: Do you know whether Lachlan Mackay knew
13 that Rob Pooley or Yuri sent this e-mail?

14 A. I don't know.

15 Q. And let's go to page 2 again. I'm sorry. Page 3,
16 actually.

17 Now, from this paperwork, do you know whether Lachlan
18 Morgan Mackay knew Yuri Garmashov? Can you tell that from this
19 paperwork?

20 A. I cannot.

21 Q. Okay. I put a binder in front of you. I'd like you to
22 look at that exhibit. It's Exhibit 2134.

23 As you just testified, we don't know whether Mr. Mackay
24 knew that Rob Pooley sent this e-mail.

25 MS. CRAGER: Your Honor, I would move to admit

1 Exhibit 21 -- I'm sorry. Let me lay a little foundation.

2 Q. BY MS. CRAGER: Is the e-mail in front of you from a person
3 Morgan Mackay, morgan@verticalfilms.com.au?

4 MR. SHARMA: Your Honor, we're going to object to
5 reading this e-mail into evidence and ask for a sidebar.

6 THE COURT: Exhibit 21 --

7 MS. CRAGER: I'm sorry. 2134. 2134.

8 THE COURT: Let me look at it.

9 MS. CRAGER: It's in Binder 7, Your Honor.

10 THE COURT: I don't think there is any reason to ask
11 this witness -- this is not either to or from him or anyone
12 with whom he's affiliated.

13 MS. CRAGER: Yes, Your Honor. I would admit this
14 through a -- an agreement with the government about the
15 admissibility of these e-mails.

16 THE COURT: All right. Well, you just got an
17 objection from the government; so it doesn't sound like you
18 have a stipulation.

19 MS. CRAGER: I believe we do have a stipulation about
20 the foundation for the e-mails.

21 MS. LYDON: We agree that these e-mails came from Rob
22 Pooley's e-mail account. We certainly do not have that
23 agreement as to admissibility, and we do not believe this is
24 admissible.

25 MS. CRAGER: Right. I'm trying to lay the foundation

1 for the relevance of this document.

2 MS. LYDON: It's not about relevance. It's also
3 about opening a big door.

4 THE COURT: It's about whether this witness knows
5 anything about it. Even if you have a stipulation that it's
6 from Robert Pooley's e-mail, it's from somebody other than this
7 witness. And there is no suggestion in here that he has any
8 part in it; so he can't answer any questions about it.

9 MS. CRAGER: I was just asking him about the -- the
10 sender and the recipient of this e-mail, e-mail addresses that
11 he does recognize.

12 THE COURT: You asked him a few questions about
13 Morgan Mackay. You can ask him questions about who that is.
14 The recipient is Robert Pooley. We know who that is. I don't
15 know what your next question is.

16 MR. SHARMA: Your Honor, this is not a -- as you
17 pointed out, this is not a way to ask about this e-mail --

18 THE COURT: I know. That's my point.

19 MR. SHARMA: Before the e-mail -- we talk about this
20 e-mail, we need to have a sidebar.

21 THE COURT: We're not going to talk about this.

22 MR. SHARMA: Okay.

23 THE COURT: There is nothing to talk about.

24 Just tell me what your next question was going to be.

25 MS. CRAGER: My -- my next question was going to be

1 did Morgan Mackay, the same applicant --

2 MR. SHARMA: Your Honor, I'm going to object to
3 reading this e-mail.

4 THE COURT: All right. Let's take the evening
5 recess. We'll resume with this tomorrow morning.

6 Have a nice evening, ladies and gentlemen. As we told you
7 earlier, I think, I hope, you can leave your books on your
8 seats, and nobody will disturb them. Don't worry about that.

9 We'll resume at 9 o'clock tomorrow morning. 9 o'clock
10 tomorrow morning. Remember the admonition.

11 (Jury not present, 4:19 p.m.)

12 THE COURT: I've been trying to get a simple
13 prescription from the pharmacy for the last couple of days, and
14 they open up at 8 o'clock in the morning. I was there at
15 8 o'clock in the morning; I couldn't pick it up. They close at
16 5 o'clock tonight. When I get there, they'll probably be
17 closing up anyway. But I would like to see if I can pick it up
18 now, if I can. We can talk about this at quarter to 9:00
19 tomorrow morning. But if I can't pick it up, we won't be able
20 to talk at quarter to 9:00 tomorrow morning because I'll be
21 back in there trying to get a prescription of some simple salve
22 to put on my skin. That's all it is. That's why we couldn't
23 start on Tuesday, because I had to -- so I'd like to take a
24 break now so I can go down the street and see if I can pick
25 that up.

1 MR. SHARMA: Very good, Your Honor.

2 MS. CRAGER: Yes, Your Honor.

3 MS. LYDON: Thank you, Your Honor.

4 (Proceedings adjourned, 4:20 p.m.)

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6 I certify that the foregoing is a correct transcript from the
7 record of proceedings in the above-entitled matter.

8

9 /s/ Kimberly M. Bennett
10 KIMBERLY M. BENNETT
CSR No. 8953, RPR, CRR, RMR

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